Supreme Court, U.S.
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PETITION FOR WRIT OF CERTIORARI

By

Subbamma V. Vadde

July-2010

IN THE

Supreme Court of the United States

[Docket#

(Based on Appeal from Court Errors in Georgia Court of Appeals Case# A09A1714 and Georgia Supreme Court Case# S10C0624)

Subbamma V. Vadde
Petitioner/Appellant

Vs.

Bank of America (BofA)
Defendant/Appellee

Subbamma V. Vadde
2630 Garland Way
Duluth, GA 30096
U.S.A
(404) 453-3531

QUESTIONS PRESENTED

1) Isn't it true that the Georgia Court of Appeals ***erred in affirming*** Cobb County State court's ***erroneous decisions;*** granting BofA's Motion for Summary Judgment (MSJ), denying Petitioner's MSJ, and dismissing her Counterclaim against BofA, and that the Georgia Supreme Court ***erred in denying*** Certiorari and Motion for Reconsideration?

2) What constitute ***objective metrics to determine whether or not a check is legitimate or fraudulent*** in this case and similar ones, and ***who is responsible for clearing deposited checks?*** Is it the bank, the depositor, the courts, or other branches of government? ***Who is responsible to pay Petitioner for past injustices to her***?

3) Isn't it ***unethical and unjust for banks***, as in this case, to clear a check and come back ***to arbitrarily/falsely accuse the depositor on the same cleared check,*** baselessly on whims and hearsay, without any tangible proof of reason for any hypothetical dishonor, when they are broke or have a broken/dysfunctional check clearance system?

4) Isn't it ***erroneous for BofA to violate Petitioner's Constitutional Rights in the United States*** by calling for waiver of protest and waiver of notice of dishonor, while creating a bogus/hypothetical check case against her, on the basis of hearsay, speculation, rumors, and whims?

5) Isn't it better justice to change/abolish/bypass dysfunctional court rules/procedures and set precedence in law by providing immediate financial compensation from BofA, of around $344,876.54+ to $1 Million+ U.S. Dollars, to innocent Petitioner, as an Extraordinary remedy for past errors, without wasting valuable time, & without her having to wait or needing to initiate a separate lawsuit on BofA?

LIST OF PARTIES

Pursuant to Rule 12.6 and Rule 14.1(b) of the U.S. Supreme Court, the parties to this proceeding are as follows:

1) The Petitioner in this court and Petitioner/Appellant in lower courts (State Court of Appeals of Georgia and the Supreme Court of Georgia) is Subbamma V. Vadde.

2) The Defendant/Appellee or Respondent in this court and the lower courts (State Court of Appeals of Georgia and the Supreme Court of Georgia) is Bank of America (BofA).

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Supplemented Records and Updated/New Evidence in Favor of Petitioner, Subbamma Vadde's Claims Against BofA, Attached with This Petition For Writ of Certiorari.

Appendix A 1a

Copy of interim Court of Appeals opinion document dated 11/20/09, erroneously affirming State Court of Cobb County's judgments of 2/4/09, denying Petitioner's MSJ and counterclaim while erroneously granting BofA's MSJ.

Appendix B 15a

Copy of Notice from the Clerk of the Court of Appeals, dated 12/09/09, on Petitioner's Motion for Reconsideration, submitted to the Georgia Court of Appeals effective 11/30/09.

Appendix C 17a

Copy of Notice Dated 4/19/10 on Petitioner's *Petition for Writ of Certiorari* dated 12/23/09, from The Supreme Court of Georgia.

Appendix D 18a

Copy of Notice Dated 5/17/10 on Motion for Reconsideration and Stay of Remittitur, dated 4/27/10, Upon Petition for Certiorari, from The Supreme Court of Georgia.

Appendix E 20a

Exhibit USSCPR1: List of Significant Political and Social Honors of Petitioner's husband, Srinivas Vadde (please see the following website

for details: http://www.scribd.com/doc/32210054/Srinivas-V-Vadde-s-Significant-Political-and-Social-Honors-and-Other-Awards).

Exhibit USSCPR2: List of Significant Political and Social Honors of Petitioner, Subbamma Vadde (please see the following website for details: http://www.scribd.com/doc/33759441/Subbamma-Vadde-s-Political-and-Social-Honors-Other-Awards).

Appendix F 31a

Exhibit USSCPR3: List of Defense witnesses that could testify or depose, if necessary, and their scope of testimony in favor of Petitioner, Subbamma Vadde, and her claims against BofA.

Appendix G 38a

Exhibit AAA: Affidavit of Support from Petitioner's Husband, Srinivas Vadde, in favor of Petitioner, Subbamma Vadde, and her claims against BofA.

Exhibit USSCPR4: Official Press Release Confirming Mr. Joseph Sanusi as Governor of Central Bank of Nigeria Transferring Responsibilities to New Governor Charles Soludo around May 2004/June 2004 : Page 1& Page2.

Exhibit A: Copy of the Original €35,000 (Euros) Ulster Bank check, received by Srinivas Vadde as capital for incidental expenses, from Mr. Joseph Sanusi through his colleague, Mr. Peter Omar, when Mr. Sanusi was the Governor of Central Bank of Nigeria, in May/June of 2004.

Exhibit B: The DHL package shipping label that delivered the Ulster Bank Check from Ireland with tracking number, address of origination (which is Mr. Joseph Sanusi's address in Lagos, Nigeria), and destination address (Mr. Srinivas Vadde's address in Smyrna, Georgia, U.S.A, in 2004) displayed. Mr. Peter Omar is Mr. Joseph Sanusi's colleague who mailed the check on behalf of Mr. Sanusi/Government of Nigeria.

Exhibit C: DHL Tracking information for the package that delivered the Ulster Bank check.

Exhibit AA: Bank of America Statement for Petitioner, Subbamma Vadde's Account from June 2004 showing that the €35,000 (Euros) Ulster Bank check was Honored, Credited, and Paid on 6/14/04, as per O.C.G.A. § 24-4-23.1.

Exhibit BBB: Copy of the envelope that delivered Bank of America's Statement for Petitioner's Checking Account# 3275278929, for the period of 6/11/04 through 7/12/04. Please note the postmark of July 15, 2004 (7/15/04) on the top right corner of the envelope cover.

Exhibit ZZ(i): Petitioner's deposit slip showing the deposit of check# 98-50-40 on June 12, 2004, for €35,000 (Euros) or $40,705.00, into Petitioner's Checking Account# 3275278929 with BofA.

Exhibit ZZ(ii): Copy of the original front and back portions of the Ulster Bank check deposited into Petitioner's BofA Checking Account# 3275278929, on June 12, 2004, for €35,000 (Euros) or $40,705.00, with all necessary legal endorsements for immediate clearance and payment to Petitioner.

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Exhibit USSCPR5: This Appendix contains complementing additional details, for an enhanced and comprehensive understanding of the crucial issues presented in the numerous sections of the *Petition for Certiorari* in this case, justifying granting of Certiorari and summary approval of Petitioner's requests therein. The supporting facts, laws, case law, logic, and other factors/evidence presented in this Appendix also specifically support dismissal of BofA's case against Petitioner and prove that granting of immediate financial relief and compensation of around U.S. $344,876.54+ to U.S. $1 Million and/or more to Petitioner, Subbamma Vadde, is justified.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Subbamma Vadde, Pro Se, pursuant to Rule 33.1 of the U.S. Supreme Court, Federal Rules of Civil Procedure (FRCP), Rules of Evidence, Rule #602 and Rule#802, hereby petitions for a Writ of Certiorari to review the opinion and judgments in Subbamma Vadde Vs. Bank of America, stated in the interim opinion of the Court of Appeals dated 11/20/09 upon denial of her Motion for Reconsideration (MFR) dated 11/30/09, by Court of Appeals on 12/9/09 (copies of errant denials attached in Appendixes A & B), and subsequent erroneous denials of her Writ of Certiorari and MFR by the Georgia Supreme Court around 4/19/10 and 5/17/10 respectively (copies of decisions presented in Appendixes C & D), for overturning judgments of State Court of Cobb County on 2/4/09 (R-915-916).

The issues presented in this petition, hinging on principles of finance, international trade, and commerce, in the current day interconnected and interdependent world economy; are of great importance, gravity, and value to the public, consumers, the world financial system, bank depositors/customers, and community, at large. This Petition for Writ of Certiorari is hence ***of historic significance***, gravity, ***and value to the innocent non liable Petitioner***, alien community in general, and to those aliens, immigrants, citizens, and banking customers/depositors unnecessarily bullied/harassed, in particular, and is extraordinarily important ***for quick and early rectification of the exceptional injustices inflicted on Petitioner and humanity in general.*** Granting this petition and requested financial relief for Petitioner will

prevent *injustice* to depositors, aliens, and/or immigrants, and/or citizens, etc., in the United States, since the opinions of the Court of Appeals in this case are not only unreasonable and unconscionable, but prejudicially manifest injustice based on inadmissible hearsay and speculation/whims, and are contrary to logic, objectivity, commonsense, reality, facts, and the laws of nature. This Petition must therefore be granted to defeat ***injustice***, bias, and discrimination in U.S.A based on race, religion, gender, or national origin; and to uphold justice, truth, reality/facts, commonsense, as well as logic, and to save the innocent from wrongful interpretation(s) of law and nature based on political, economic, cultural, racial, and other alienations in the World, and our Universe that we live in.

I. OPINIONS BELOW

The interim opinion of the Georgia Court of Appeals is reported at 301 Ga. App. 475; 687 S.E.2d 880, (2009), and is reproduced with its MFR decision to illustrate court errors, in Appendices A & B. The Georgia Supreme Court decisions are presented in Appendices C-D.

II. PETITIONER'S CONTENTIONS, ISSUES, AND/OR STANDS/FACTS RELATED TO QUESTIONS PRESENTED IN THIS CASE

Petitioner's stands and issues raised in this case are stated in this Section. Petitioner asserts that it was error for the Georgia Court of Appeals to uphold lower court's erroneous decisions in favor of BofA, and erroneous for Supreme Court of Georgia to

deny her Petition for Certiorari and MFR unreasonably and whimsically without objectivity, and without even addressing any of her valid contentions and issues raised therein. Petitioner therefore reiterates her prior contentions and issues raised in lower courts and requests that the Honorable U.S. Supreme Court make note of and/or address the following issues, hitherto unaddressed by lower courts, to grant this petition:

a) Petitioner contends that once a 3rd party check is accepted and/or cleared by a depositary bank even once, it immediately indemnifies the depositor of any allegations on the deposits, as is the case here, regardless of who (which organization, institution, and/or which individual) is finally responsible for clearing the checks deposited by a customer; or whether it is the recipient/depositor of the check, the depositary bank, the payor bank, the collecting bank, the maker of the check/maker bank, the depositor, the courts, or other branches of the government(s).

b) What, if any, are the regulatory norms for clearance of international checks and what specific time duration from deposit date constitutes the meaning of the term "midnight deadline" and what exact time signifies "final" for check clearance, as mandated by UCC (§ 4-301, § 4-302, and § 4-105(2)) and OCGA (§ 11-4-301, § 11-4-302, § 11-3-502, § 11-4-104(10), § 11-4-105(2), § 11-4-201(a), § 11-4-202, and § 11-4-215 (a)) guidelines in banking transactions, according to the "intent" of the statutory legislation? This must be made explicit.

c) Petitioner contends that conclusory allegations, whether based on whims, or on opinions, speculation, rumors, etc., and other intangibles by BofA or banks, etc., are not legally tenable and acceptable tangible objective metrics or proof that a

check is fraudulent/counterfeit or is not genuine and authentic.

d) Petitioner contends that it is unethical for a bank such as BofA to clear a check and then come back to debit depositor's account and falsely allege that the depositor's check it cleared earlier is counterfeit, when the real reason for its doing so is that BofA is broke and/or has a broken check clearance system.

e) At issue is the question as to how BofA's case against Petitioner could come this far while violating her constitutional rights? (a) BofA should never have initiated this case against the innocent & faultless Petitioner in the past, or, (b) Upon creation of such a bogus BofA case, Petitioner should have either been granted a trial for her disputed issues as per the Seventh Amendment of the U.S. Constitution (since she had defense witnesses who could vouch for the veracity of her claims and the authenticity of the check she deposited, as detailed in Appendix F: Exhibit USSCPR3), or, (c) Petitioner should have been granted a complete dismissal of the case with a granting of her Counterclaim requests by the trial court, notwithstanding the fact that there should be no trial in this case since Petitioner already had valid "*Motions in Limine*" in place that had to be granted in favor of her requests in her Counterclaim, preventing the need for a trial anyway.

f) At issue is the need to protect Petitioner's Constitutional right to privacy in banking issues, as well as her First Amendment right to protest and not waive UCC requirement of timely notice of dishonor by banks (BofA and Ulster Bank) for any alleged dishonor. How can the judges and justices possibly ignore such basic issues and instead promote modern day slavery for banks' present customers?

g) Judge Irma Glover of the Cobb State Court had procrastinated decisions on Petitioner's MSJ from 3/07 until 2/4/09, essentially waiting until after 1/20/09 when former President George W. Bush (whom Petitioner and her husband had been associated with in past) left office, only to render whimsical, unjust, and bad decisions against Petitioner, thus exhibiting her negative political bias in this case. At issue is therefore the need to prevent discrimination against Petitioner, to prevent discrimination of immigrants in financial transactions in general (since Petitioner and her husband had been unjustly harassed in the US banking and legal system in the past due to their Political connections; please see Appendix E: Exhibits USSCPR1&2 for details). Of what credibility or use is the proclaimed United States' respect for basic human rights in the international context, if past judges and justices themselves chose to turn a blind eye to atrocities of Georgia and U.S. banks in the international financial arena to deny granting Petitioner's requests for financial compensation in this case?

h) ***At issue is the importance and need to change dysfunctional court rules and procedures***, and further, the need to award immediate compensation to Petitioner from BofA ***of around $1 Million+ U.S. Dollars as an Extraordinary remedy*** based on her counterclaim, for past banking and court errors under such circumstances, without Petitioner having to wait to initiate a separate lawsuit on BofA. Further details are presented in Appendix H.

III. JURISDICTION

(a) The Georgia Court of Appeals erroneously affirmed the erroneous decisions from the State Court of Cobb County of Georgia denying Petitioner's MSJ but granting BofA's MSJ, in its interim opinion dated 11/20/09. (b) Petitioner subsequently filed a timely Petition for Certiorari and a timely MFR in the Georgia Supreme Court, which were also erroneously denied around 4/19/10 and 5/17/10, respectively. (c) Petitioner also filed a timely notice of intent earlier with the Court of Appeals of Georgia (as per Rule 38(b)(1) of that court), to Petition for Certiorari in the U.S. Supreme Court, around 4/23/10. (d) Petitioner is filing this Petition for a Writ of Certiorari within 90 days from 5/17/10, according to Rules 13.1 and 13.3 of the U.S. Supreme Court. Petitioner invokes this court's jurisdiction according to the Constitution of the United States (Art. III, §1, and §2). (e) This court has jurisdiction under 28 U.S.C. § 1251 et seq., in general, and under 28 U.S.C. § 1257(a), in particular.

IV. CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

(a) This case involved egregious and repugnant violations of Petitioner's constitutional civil rights guaranteed by the United States Constitution. (b) Constitutional issues involved and violated by BofA's unjust actions in this case (R-346-376), such as baseless intrusion/probing into her private banking matters, unauthorized seizure of funds (analogous to property) in Petitioner's accounts, closure of accounts, and calls for waiver of protest and notice of dishonor, etc., include but are not limited to the

First, Fourth, Fifth, Seventh, and Fourteenth Amendments of the United States Constitution. (c) The statutes involved in this case are those pertaining to the laws of Uniform Commercial Code (UCC) applied to check transactions in general, such as, UCC (§ 4-301, § 4-302, and § 4-105(2)) and OCGA (§ 11-4-301, § 11-4-302, § 11-3-502, § 11-4-104(10), § 11-4-105(2), § 11-4-201(a), § 11-4-202, and § 11-4-215 (a)). (d) At issue in this petition are BofA's constitutional violations of the UCC Statutes since ***Petitioner contends that the UCC statutes involved in this case discharge her of liability and make BofA liable to compensate her***. Further details are presented in the remainder of this petition, and in the Appendixes.

V. BACKGROUND/INTRODUCTION

Appellee (BofA) wrongly debited Petitioner's account through international check for € 35,000 (Euros) from Ulster Bank of Ireland (deposited on 6/12/04), after initially crediting and clearing it by 6/14/04, without giving Petitioner a timely notice of dishonor by the "midnight deadline" as mandated by the UCC of the United States. BofA unilaterally, unreasonably, and unconscionably modified its deposit services agreement in 2004 without Petitioner's prior consent or knowledge, after Petitioner opened her account in 2001, calling for an unjust waiver of protest and notice of dishonor, in violation of UCC guidelines. BofA's deposit agreement is deemed invalid and stood terminated when Petitioner's account was unilaterally closed and wrongfully debited, in August of 2004, much before BofA's invalid affidavits of hearsay were prepared or introduced in this case in 2006.

Petitioner also terminated BofA's agreement prior to this case and exercised her First Amendment Constitutional right to object and protest against banks' atrocities and ***did not waive her right*** to ***terminate BofA's agreement and protest against waiver of timely notice of dishonor by the "midnight deadline"***. Further, BofA did not present the check to maker bank (Ulster Bank), nor did Ulster Bank dishonor Petitioner's check. ***Contrary to Court of Appeals' claims*** in its denial dated 12/09/09, of Petitioner's MFR, ***BofA's affidavit of hearsay does not state that BofA was notified by Ulster Bank*** that the check was returned unpaid as a counterfeit item, ***but instead states that it was notified*** that it was returned unpaid ***by BofA's Operations Technology Division for foreign transit items, and not the maker bank, Ulster Bank, as illustrated in Figures 1&2*** of this Petition for Writ of Certiorari.

Neither BofA, nor the lower court judges/justices have presented any tangible evidence or pointed to any specific portion of the record to substantiate as actual tangible proof for reason of dishonor (what is the alleged "fraud" here, and why was the check alleged to be "counterfeit", even if hypothetically speaking?). Mere conclusory allegations that Petitioner's genuine and authentic check is counterfeit do not constitute tangible evidence to the contrary. Further, Petitioner presented affidavits (Exhibit AAA (R-383-472; R-754-873)) from a perceiving defense witness (Srinivas Vadde, Petitioner's husband and the original recipient of the Ulster Bank check) who was in direct contact with the original issuer of the check (Joseph Sanusi, the Former Governor of the Central Bank of Nigeria), and who is also competent to testify/state

from personal knowledge in support of Petitioner's claims, under the best evidence rule of the Civil Practice Act, pursuant to O.C.G.A § 24-5-1, O.C.G.A § 24-5-2, and/or O.C.G.A § 24-5-3, thus maintaining the chain of evidence, which is not hearsay. A list of some of Petitioner's important defense witnesses was presented to State court (R-196-201), and is also presented in updated form with their scope of testimony in Appendix F: Exhibit USSCPR3.

VI. STATEMENT OF THE CASE

Appellee filed an invalid suit on contract around 4/14/06. In reply, Petitioner filed a Motion to Dismiss on 4/28/06 (R-13-23) and amended it on 6/1/06 (R-52-76), which was erroneously denied on 7/5/06 (R-97-98). Petitioner further filed an amended answer & counterclaim on 7/26/06 (R-119-183) and amended it later on 10/13/06 (R-383-472). Though Petitioner filed her Motions for Discovery (R-101-103), related Supplements (R-231-238), and Notice to Produce (R-473-483), on 7/14/06, 9/5/06, and 10/26/06 respectively, Appellee failed to honor them, necessitating Petitioner's filing of additional interrogatories and requests for admissions around 8/5/06 (R-204-220) and 9/5/06 (R-239-257; R-258-279), which largely went unanswered too. Around 9/18/06, Petitioner also moved Court for an order compelling discovery (R-325-341) which was unjustly denied on 1/16/07, (R-747-750), while granting Appellee's protective order to hinder discovery (R-280-324). Petitioner also filed a Motion for Sanctions against BofA around 11/21/06 (R-560-594) which was denied on 1/16/07 (R-747-750). Petitioner filed a Motion in Limine to Exclude Prejudicial Hearsay Information and Evidence (R-363-376) and Motion in

Limine to Disqualify Witnesses of Appellee (R-346-362) around 10/4/06, which were temporarily denied around 1/16/07 (R-743-746) for reconsideration and granting before trial with preserved objections raised therein, although there was no trial of this case. Appellee filed its MSJ on 11/17/06 (R-505-559) and Petitioner issued a rebuttal on 12/5/06 (R-625-690). Petitioner filed a Motion for Judgment on Pleadings on 12/4/06 (R-608-611) which was also denied on 1/16/07 (R-743-746).

Petitioner filed her MSJ (R-754-873) around 2/22/07 and rebuttal to Appellee's comments (R-878-902) on 3/21/07, which were held in abeyance until 2/4/09, to deliberately procrastinate case and harass her. During the course of this case since 4/06, Petitioner filed numerous Responses/Rebuttals, to each and every claim and Motion of Appellee, which are part of the record (R-13-45; R-52-76; R-82-96; R-119-203; R-325-341; R-377-382; R-499-502; R-560-594; R-595-607; R-625-690; R-693-697; R-710-717; R-718-721; R-722-724; R-726-731; R-732-740; R-754-873; R-878-902; R-903-914; R-920; R-923-924). Petitioner also filed a Motion to Strike BofA's affidavits based on hearsay without personal knowledge of affiants (R-618-624; R-726-731). However, Petitioner's said MSJ was unjustly denied while Appellee's said MSJ was granted around 2/4/09 (R-915-916). Petitioner filed a notice of appeal around 2/19/09 (R-1-4) and amended it (R-5-8) on 3/16/09.

Petitioner filed a thorough Appellate Brief addressing all case issues on 5/26/09, but upon court order of 8/13/09 (asking for an abbreviated version) submitted another concise version on 8/21/09. The Judges from the Court of Appeals however overlooked the record of this case (R-1-924) and

rendered their interim opinion affirming lower court rulings on 11/20/09 while asking Petitioner for details again (the same details which they chose to ignore earlier when presented in her detailed appellate brief dated 5/26/09, and which are also part of the record in her Motion for Summary Judgment (MSJ) (R-754-873; R-878-902) and rebuttal to plaintiff's MSJ (R-625-690)). The Court of Appeals judges did not base their decision on evidence and objectivity, but on whims and attempted self-serving hearsay (which is in fact a euphemism for their blind, unjust, prejudicial, and imprudent presumptuous support for lies from BofA). Petitioner submitted her MFR dated 11/30/09 to Court of Appeals based on Rule 37(e) of that court, and issued a point to point rebuttal of each and every issue raised in its opinion dated 11/20/09 (details presented at the following website: http://www.scribd.com/doc/33246033/Subbamma-Vadde-V-Bank-of-America-Georgia-Court-of-Appeals-Motion-for-Reconsideration-113009). Unfortunately, the Court of Appeals turned a blind eye to her requests and denied her MFR on 12/09/09. Petitioner's subsequent petitions for a Writ of Certiorari and MFR to the Georgia Supreme Court filed on 12/23/09 and 4/27/10 were also errantly denied on 4/19/10 and 5/17/10 respectively. Petitioner incidentally filed her timely Notice of Intent to file for Certiorari to the U.S Supreme Court on 4/23/10 before her denial of MFR on 5/17/10. ***It is evident that lower courts simply chose to ignore Petitioner's points and facts while continuing to harp on their speculative non issues*** (R-1-924).

Petitioner is currently Petitioning for a Writ of Certiorari with this Honorable Court since it is abundantly clear from the interim opinion document

dated 11/20/09, that the judges of the Court of Appeals applied inapplicable/invalid case law (not applicable to 3rd party checks or banking transactions in this case where there was no jury trial or bench trial), and have not read the record of this case; for the issues (or non issues) they raised have already been addressed/resolved by Petitioner in the record in her favor, by her cited authority & the authority of her own persuasive reasonable/logical arguments and consequent precedence being set by her own case.

Petitioner contends that the Cobb Court, Court of Appeals, and Georgia Supreme Court erred by acting prejudicially and unreasonably, and abused their judicial discretion by violating Petitioner's Constitutional Rights, ***especially her First Amendment Right to Protest***. Petitioner objects to judgments of 2/4/09 and opinions of 11/20/09 and 12/9/09, as well as erroneous decisions of 4/19/10 and 5/17/10, ***as they are contrary to justice***, and involved illegal admission of prejudicial hearsay evidence on the authenticity of Petitioner's check, despite her objections to Court, while baselessly excluding evidence favorable to Petitioner's claims on the same issues. Petitioner also contests that the Cobb Court made ***numerous errors of law applying inapplicable case law*** to Petitioner's case, by presuming that BofA could recover $42,200.96 principal and interest from her even though Petitioner owes nothing to it. ***The Cobb Court erred by dismissing Petitioner's Counterclaim*** against BofA for around U.S $344,876.54+. ***Since there was no trial, there are no trial transcripts. The record consists of written motions and rebuttals. There are also no known transcripts from the motions hearing***

on 12/18/06. Petitioner has shown that there is no fact or issue to be determined and that ***she is now entitled to judgment on her counterclaim for around $344,876.54+ to $1 Million+ U.S. Dollars against BofA*** as a matter of law, for judicial economy and justice.

VII. ENUMERATION OF ERRORS

1. ***Petitioner's MSJ (R-754-873) should have been granted and Appellee's MSJ (R-505-559) should have been denied:*** The issue of insufficiency of evidence to grant Appellee's MSJ was raised in Petitioner's MSJ (R-754-873) and Rebuttal on the issues (R-878-902), and Objections raised in Pleadings as detailed in Section VI, above. Petitioner's rebuttal to BofA's MSJ (R-625-690) completely defeated its case and bogus affidavits. ***Appellee submitted no written response to Petitioner's rebuttal dated 12/2/06 within 30 days,*** thereby granting Petitioner's claims by default, as per Rule 6.2 of Uniform State Court Rules and O.C.G.A. § 9-11-55(a). Court of Appeals also ***erroneously ignored*** the portions of the record in Petitioner's MSJ (R-754-873) that clearly show that ***she did not sign a signature card*** specifically agreeing to BofA's presented undisclosed disclosures document, ***nor waived notice of dishonor or her right to protest***. The judges have also ***not addressed*** the ***"unreasonable"*** and ***"unconscionable" aspects of BofA's agreement***, as pointed out by Petitioner in Section VI of her Appellate brief referring to the relevant portions of the record where these aspects are clearly enunciated (R-383-472; R-754-873; R-878-902). So, since there is no evidence sufficient

to create a genuine issue, all other disputes of fact are rendered immaterial. Holiday Inns v. Newton, 157 Ga. App. 436 (278 S.E. 2d 85) (1981)[1]. More reasons are given in Sections IX-XIV and Appendix H.

2. ***Petitioner's Motion for Judgment on Pleadings (R-608-611) should have been granted:*** Petitioner showed in her motion and rebuttal to BofA's response (R-710-717) that its pleadings do not validly deny or dispute her allegations and claims against it. Hence they were to be regarded as true even then, by around 12/04/06. Rolling Pin Kitchen Emporium, Inc. v. Kaas, 241 Ga. App. 577, 578, 527 S.E.2d 248, 249 (1999).

3. ***Petitioner's Motions in Limine (R-363-376; R-346-362) should have been granted:*** Petitioner had protested, objected, and moved court with cogent arguments throughout the record (R-passim), to ***exclude prejudicial hearsay information*** pertaining to BofA's conclusory allegations/labels about the checks in this case being fraudulent or allegedly being returned due to fraud (without returning the check), pursuant to the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the U.S Constitution, and Georgia Constitution. This case involves reputed Nigerian and International bankers and not any 419 scammers, and BofA's/lower court's allusion to some generic 419 schemes to justify BofA's speculation and paranoia based on rumors is

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[1] All citations in this Writ are from Petitioner, Subbamma Vadde, Lexis Nexis © 2009 and Westlaw © 2009, with permission from © Thomson Reuters/West.

unjustified. One must wonder why payments received by American companies such as Exxon/Mobil, Texaco (or other Oil companies from Texas) etc., which do business with Nigeria & OPEC (Organization of Petroleum Exporting Countries) are exempt from being branded with speculation of 419 schemes when they also received their payments from the same Mr. Sanusi and Central Bank of Nigeria that Petitioner's husband had received payment from. ***It must be noted that the Court/Judges are welcome to contact Mr. Joseph Sanusi, if needed, to verify the authenticity of the check in this case and Mr. Sanusi could gladly testify/state about its integrity and could shed light on how he himself worked in coordination with the blessings of the Secret Services of many countries, including the United States, when he dispatched checks for payment on behalf of his Nigerian Government, through corresponding Banks.*** BofA's case is therefore based on rumors/speculation and prejudicial hearsay remarks from unknown and unaccountable sources. Rumors from unknown sources are inadmissible hearsay. Plemans v. State, 155 Ga. App. 447, 270 S.E. 2d 836 (1980). Other citations suggesting that such hearsay is inadmissible are; Clauss v. Plantation Equity Group, Inc. 236 Ga. App. 522, 512 S.E. 2d 10 (1999); Daubert v. Merrell Dow Pharmaceuticals, Inc. 509 U.S. 579 (1993) (Cited in Opinions of The United States Supreme Court); General Electric Co. v. Joiner, 522 U.S. 136 (1997) (Cited in Opinions of The United States Supreme Court); Kumho Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999) (Cited in Opinions of The United States Supreme Court). Therefore,

Petitioner's Motions in Limine should have been granted. McMillen v. 84 Lumber, Inc. 538 Pa. 567, 569, 649 A. 2d 932, 933 (1994). Further justification is given in Petitioner's rebuttal to BofA's responses (R-595-607).

4. ***Petitioner's Motion to Compel Discovery (R-325-341) and Petitioner's Motion for Sanctions (R-560-594) should have been granted:*** Appellee should have been sanctioned for failing to comply with State & Federal Rules of Civil Procedures, for failing to respond completely to Petitioner's first interrogatories, for giving evasive, false and self contradictory answers to first request for admissions, and for failure to respond to second interrogatories and requests for admissions, and for abusing the judicial process. ***It is unjust to make adverse decisions against Petitioner without proper discovery and answers*** from BofA on crucial questions raised in her interrogatories and requests for admissions (R-239-257; R-258-279), calling for the reversal of 2/4/09 decisions. Bullard v. Ewing, 158. App. 287, 279, S.E. 2d 737 (1981). Since the information sought did not fall within guidelines for a protective order, it would not have been error to compel its discovery and grant sanction for non compliance. Ambassador College v. Goetze, Cert. denied, 444 U.S. 1079, 100 S.Ct. 1029, 62 L. Ed. 2d 762 (1980). With respect to Court of Appeals' issues raised in Pages 7 & 8 of its opinion dated 11/20/09 on denial of discovery and consequent harm to Petitioner; Petitioner sought answers from BofA on the pertinent issues of authenticity of her check, alleged dishonor, and notice of dishonor, answers & admissions to which if provided, upon discovery being allowed and compelled by Court, would have

further corroborated the facts that BofA's case is based on use of illegal conclusory allegations and inadmissible hearsay, and that ***Petitioner's check was not legally dishonored or returned to Petitioner, is not fraudulent, was not returned by Ulster Bank, and that check was not presented to Ulster Bank upon deposit in 2004.*** The harm caused to Petitioner by Court's actions on preventing discovery has been adequately described in her MSJ (R-754-873), with further details provided in her affirmative relief claimed in her counterclaim (R-383-472) & rebuttal to Appellee's MSJ (R-625-690; R-754-873; R-878-902), as per *Brown v. Brewer*, 237 Ga. App. 145, 148 (3) (513 SE2d 10) (1999). Details of such harm were also provided by reference in Sections XV & XVI of her Appellate brief dated 8/21/09, and in detail in Sections XV & XVI of her first Court of Appeals brief dated 5/26/09. Further compelling arguments and citations are given in Petitioner's Motion for Sanctions and related rebuttals (R-732-740).

5. ***Petitioner's Motion to Record All Proceedings (R-344-345) and/or Petitioner's Request for Waiver of Motions Hearing (R-693-697; R-722-724) should have been granted:*** It was error for Court to ask Petitioner to appear for such hearing despite Petitioner having submitted written arguments in her Motions addressing issues, which are legally deemed to have been heard without having to physically appear for a hearing, within the meaning of O.C.G.A § 9-11-56. Petitioner had already responded with a Motion for Judgment on Pleadings around 12/4/06, and hence been heard and didn't need to attend any hearing. Legal citations for this are presented in her "Request for Waiver of Hearing," (R-693-697) &

"Request for Waiver of Motions Hearing," (R-722-724), and rebuttals to Appellee's responses (R-499-502). It is not error for the court in a case to rule on a summary judgment motion without an oral argument hearing, where neither party requested such a hearing, as here. Val Preda Motors v. National Uniform Serv.' 195 Ga. App. 443, 393 S.E. 2d 728 (1990). Not only was a hearing unnecessary, but it was error for court to deny the Motion to Record All Proceedings while simultaneously requiring a hearing. Nevertheless, Petitioner made general and specific oral objections to hearsay and speculation in court, as in her writings, by reference, on 12/18/06. However, she was informed by Judge Irma Glover of the Cobb Court that she would not read/go through the written Motions and responses or Rebuttals of Petitioner. Therefore, adverse decisions against Petitioner in the past without reading her writings, were erroneous & prejudicial. Further reasons are given in Section IIA of Appendix H.

6. ***Petitioner's Motion to Dismiss (R-13-23; R-52-76) should have been granted:*** BofA's action was baseless and frivolous, and in violation of laws of the U.S. Uniform Commercial code (UCC) such as U.C.C § 4-401, U.C.C § 4-402, and UCC § 4-302, discharging Petitioner from liability in this case. BofA's suit on contract violated Georgia laws governed by Title 11, Article 3, such as O.C.G.A § 11-4-402, O.C.G.A § 11-3-502, O.C.G.A § 11-4-301, and O.C.G.A § 11-4-302, applicable to checks. ***BofA also exercised insufficient service of process***, failed to state any valid claim on which relief could be granted, ***used inapplicable contract law for a negotiable instrument***, failed to join the maker bank and international

issuers of the check, and ***failed to give Petitioner timely notice of dishonor***. Therefore, Petitioner's Motion to Dismiss should have been granted. Further reasons are given in the said Motion, related rebuttals to Appellee (R-82-96), and in other parts of this Writ.

7. ***Petitioner's Counterclaim (R-383-472) should have been granted:*** Since Petitioner has sought affirmative relief with sufficient grounds in her pleadings, her counterclaim must be granted. Brown v. Viberty County, 247 Ga. App. 562, 544 S.E.2d 738 (2001). The issue of ***negligence*** of BofA causing ***injury, damage and harm to Petitioner***, is also clearly elaborated in Sections II & III of her Appellate brief and her MSJ (R-754-873). The only way this case and Petitioner's counterclaim can now end is if BofA is shut down as bank/ceases to exist, and/or if BofA awards financial relief on her claims stemming from her counterclaim. In general, if a counterclaim has been pleaded by Petitioner prior to any request to dismiss, the counterclaim can't be dismissed against Petitioner's objection unless it can remain pending for independent adjudication by court, or through a settlement/judgment by the judge(s) in favor of Petitioner, as in this case. Stanley v. Stanley, 244 Ga. 417, 260 S.E.2d 328 (1979). Other reasons are presented in Sections IX-XIV and Appendix H of this Writ.

8. ***State court used invalid case law in its judgments (R-915-916) that is not applicable to Petitioner's case***: The case law used to support decisions against Petitioner was Lau's Corp. v. Haskins, 261 Ga. 491, 405 S.E.2d 474 (1991). Ironically, this case law does not pertain to any 3rd party check and ***is not only inapplicable to***

justify decisions of 2/4/09, but in fact goes to prove several of Petitioner's claims against bank. (a) There, the Haskins brought action as patrons of a restaurant, when robbed and injured by two men in its adjourning parking lot. The trial court granted summary judgment to the restaurant, the Court of Appeals reversed, and the Supreme Court of Georgia granted certiorari and reversed the Court of Appeals. However, the Haskins' case neither involved a case on contract by a plaintiff Bank, nor involved any 3rd party international check or any banking transactions, with a midnight deadline to follow, according to the (UCC), and ***hence is inapplicable as any standard in this case***. Besides, the plaintiff did not prevail in that case. If there is any analogy to adopt from that, it is that the plaintiff, BofA, should not prevail in this case either. (b) On issues of claims of negligence involved in both cases, negligence by restaurant was claimed by plaintiff whereas negligence by bank is claimed by Petitioner in her counterclaim. Bank is the negligent party here and has no claim of negligence against Petitioner since it is precluded by her defense of estoppel (see Section XIIA of Appendix H of this Writ). First Ga. Bank v. Webster, 168 Ga. App. 307, 308, S.E.2d 579 (1983). ***The aggrieved party here is the Petitioner, and not BofA***. As per Sutter v. Hutchings, 254 Ga. 194, 196-197 (327 S.E.2d 716) (1985) (quoting Prosser, Law of Torts, 4th ed., § 30 (1971)), the traditional elements of a negligence case are: (1) A duty, or obligation, recognized by law, requiring the actor to conform to a certain standard of conduct, for the protection of others against unreasonable risks, (2) A failure on his part to conform to the standard

required...Clearly, ***standards in (1) and (2) were violated by BofA*** when it accepted Petitioner's check and/or honored it, and did not give a timely notice of dishonor by the midnight deadline as mandated by UCC guidelines (see Section XA of Appendix H of this Writ); (3) A reasonable close causal connection between the conduct and the resulting injury..., (4) Actual loss or damage resulting to the interests of the other; Clearly, ***criteria in (3) and (4) are also satisfied in favor of Petitioner because abusive litigation by BofA caused her to file her counterclaim against BofA*** (see Sections XIII & XIV, and XVA of Appendix H of this Writ). Wrongful dishonor caused by BofA is also a tort for which punitive damages can be assessed. Fidelity Natnl. Bank v. Kneller, 194 Ga. App. 55, 390 S.E.2d 55 (1989). ***BofA's negligence is clearly flagrant and established objectively in Petitioner's MSJ (R-754-873)***, while negligence in Haskins' case was open to subjective interpretation in other non-banking issues. More reasons are detailed in Sections IX-XIV and Appendix H, especially Sections XIII & XIV, and Section XVA of Appendix H.

VIII. ARGUMENT AND CITATION OF AUTHORITY/STANDARD OF REVIEW

1. ***Discovery rulings:*** Control over discovery including the imposition of sanctions is reviewed for "clear abuse of discretion." Time Warner Entertainment Co. v. Six Flags Over Georgia, 245 Ga. App. 334, 350 (3) (b) (537 SE2d 397) (2000). It was abuse of discretion for Cobb Court to hinder discovery favorable to Petitioner by

exhibiting a county/local bias towards BofA. It was abuse of discretion to deny Petitioner's Motion to Compel Discovery (R-325-341) and Motion for Sanctions (R-560-594) and to grant an unjustified protective order to Appellee (R-747-750) to mask its ignoble acts.

2. ***Evidentiary ruling:*** Decision to admit or exclude evidence including relevant evidence is reviewed for abuse of discretion. Dept of Transp. v. Mendel, 237 Ga. App. 900, 902 (2) (517 SE2d 365) (1999). Petitioner's Motions in Limine to Exclude Hearsay (R-363-376), Disqualify Witnesses of Appellee (R-346-362), and Suppress BofA's Fabricated Evidence on authenticity of Petitioner's check (R 377-382), filed around 10/4/06, should have been granted immediately upon filing. ***It was error/blackmail to attempt to preempt or fabricate bogus opinion evidence*** for BofA through abuse of discretion by hibernating/holding the Motions in abeyance in past, even though there is no factual evidence and real qualified witness against Petitioner.
3. ***Construction of a contract***: Reviewed de novo on appeal. Question of law for the trial court unless after the application of the rules of construction, the contract remains ambiguous. Sagon Motorhomes v. Southtrust Bank of Ga., N.A., 225 Ga. App. 348, 349 (484 SE2d 21) (1997). This case involves a mere 3rd party international check cashing transaction and ***does not pertain to any contract***. ***Petitioner has no contract with BofA.*** This case on contract was filed to harass Petitioner and her husband who are Indian Citizens and/or legal U.S immigrants who could have cashed this check in other countries without undue harassment or delay (including

the European Union or India, where they are from originally); had BofA not messed up this simple check cashing transaction. Further points are in Sections IX-XIV and Appendix H of this Writ, especially in Section VIA.

4. ***Grant of summary judgment***: On appeal of a grant of summary judgment, ***the appellate court must review the evidence de novo*** to determine whether the trial court erred in concluding that no genuine issue of material fact remains and that the party was entitled to judgment as a matter of law. Rubin v. Cello Corp., 235 Ga. App. 250 (510 SE2d 541) (1998). ***Evidence was lacking and insufficient to support Judgments of trial court in this case.*** Trial court abused its discretion and the court system with whimsical dictates, as its judgment was against weight and/or preponderance of evidence as shown in Petitioner's MSJ (R-754-873). For an inference to be sufficient to create a genuine issue of fact precluding summary judgment for Petitioner, it must be reasonable and must amount to more than mere speculation, conjecture, or possibility, which is not the case with BofA here (R-505-559). Kmart Corp. v. McCollum, 2008, 290 Ga. App. 551, 659 S.E.2d 913, certiorari denied. Based on Graham Bros. Const. Co., Inc. v. Seaboard Coast Line R. Co., 150 Ga. App. 193, 257 S.E.2d 321, (1979), even though Cobb Court and Court of Appeals erred in their judgments by improperly ignoring written arguments and points proving Petitioner's claims in this case, the U.S Supreme Court can overturn those judgments and grant Petitioner's requests *upon consideration of the entire written record (R-1-924), expanded with the*

current Writ. However, the honorable Supreme Court is requested to overturn lower court judgments faster here with a summary disposition granting the current Petition, since the essence of the entire record is included in this Writ. Not only does Petitioner not bear the burden of proof at any trial in this case, but there can be no trial here since Petitioner filed Motions in Limine to win her case with her MSJ on her counterclaim without trial, and need not conclusively prove the opposite of each element of the non-moving party's/BofA's case. Corbitt v. Harris, 182 Ga. App. 81 (354 S.E.2d 637) (1987). So, issues may be decided by this court in Petitioner's favor since this is a plain and palpable case where reasonable minds cannot differ as to the just conclusion to be reached in favor of Petitioner.

Hearsay, opinions, and conclusions in BofA's affidavits are inadmissible as evidence on Summary Judgment. This is supported by Judgment and case law in Langley v. National Labor Group, Inc., 62 Ga. App. 749, 586 S.E.2d 418, (2003). It is also clear that ***even if Appellee had claimed a dishonor of Petitioner's check*** (which has now turned out to be only hypothetical), ***dishonored checks cannot be criminal or tortious when drawer does not know or intend check to be dishonored at time it is written,*** as is the situation with Petitioner here. Duffy v. Landberg, 133 F3d 1120 (8th Cir. 1998). Besides, BofA already honored/cleared/paid the check on 6/14/04, as per evidence presented and O.C.G.A § 24-4-23.1. So, decisions of lower courts from 2/4/09, 11/20/09, and 12/09/09 must be overturned.

5. ***Trial court's findings of fact:*** Reviewed under clearly erroneous standard. City of McDonough v. Tusk Partners, 268 Ga. 693, 696 (492 SE2d 206) (1997). The Cobb Court based its findings on hearsay, speculation, whims, rumors, erroneous standards, and case law not pertaining to any 3rd party checks. The Court of Appeals therefore erred in affirming Cobb Court's judgments from 2/4/09.
6. ***Question of law:*** De novo or independent review on appeal. Since no deference is owed to the trial court's ruling on a legal question, the "plain legal error" standard of review is applied. Suarez v. Halbert, 246 Ga. App. 822, 824 (1) (543 SE2d 733) (2000). Lower courts have not addressed the question of law as to what law/laws provide(s)/constitute(s) proper metric(s) or measure(s) and criteria for honoring/dishonoring an international 3rd party check, especially after it has already been honored before, as done here. There are no clear criteria or metrics from lower Courts that conclusively state or classify as to how, when, where, and why a said check can be objectively considered to be determined fraudulent. So, this Writ must be granted.

Further points augmenting the above six points are presented in Sections IX-XIV and Appendix H of this Writ and in the motions referenced therein.

IX. THEORY OF RECOVERY FOR GRANTING PETITIONER'S MSJ

Petitioner sought ***recovery of $1,376.54 wrongfully debited*** from Petitioner's account. She also sought recovery of around $344,876.54+ to

$500,000+ (and now seeks $1 Million+) for proximate damages, costs, pain/suffering, ***loss of employment opportunities due to BofA's libel/slander/tarnishing of her reputation***, and other nuisance factors caused by BofA during its abusive litigation due to the wrongful dishonor of Petitioner's check, based on her counterclaim and pleadings against bank (R-754-873; R-878-902). BofA initially accepted/honored Petitioner's check on 6/12/04 and credited it by 6/14/04. However, BofA wrongly debited Petitioner's account on 7/8/04 without sending her any timely notice of dishonor, by the midnight deadline mandated by law (by 6/14/04). Therefore, Appellee's action has no cause and violates U.S, Georgia, and international laws of commercial code. Petitioner has no contractual obligation with Appellee that is valid for it to claim any recovery nor does Petitioner have any contract with Appellee to provide it goods or services for a negotiable instrument constituting capital/expenses. Petitioner is therefore discharged from any liability in this case and ***BofA is indebted to Petitioner and liable to pay Petitioner in full*** for the check deposited and ***for having abused the justice system through abusive litigation***.

X. STATEMENT OF FACTS

Petitioner deposited an international check for € 35,000 from Ulster Bank, O'Connell St., Dublin, Ireland into her BofA account# 3275278929 on 6/12/04. The check was received by her husband from Ulster Bank through Mr. Joseph Sanusi, the then Governor of the Central Bank of Nigeria (R-383-472; R-754-873). Incidentally, Mr. Joseph Sanusi is a prominent and reputed banker educated in

England, with over 20 years of banking experience by around 2004, who has overseen Millions and Billions of dollars in payments to world reputed Oil and/or Gas Companies, as well as to Contractors of the Federal Government of Nigeria, including but not limited to Exxon Mobil, Chevron Texaco, BP, and Shell, etc. Mr. Joseph Sanusi and the Federal Government of Nigeria, along with the Central Bank of Nigeria, through its corresponding banks, have extensive experience consummating financial transactions in the U.S and abroad, including with several world governments (please see Official Press Releases on Joseph Sanusi from Central Bank of Nigeria, http://www.cenbank.org/). Joseph Sanusi's name was also given as a possible defense witness to trial court and the scope of his testimony on the authenticity of the check was also stated clearly (R-196-201). Mr. Sanusi, if needed, could gladly elaborate on his connections with the Secret Services of various countries, including that of the United States, in the discharge of his duties as Former Governor of Central Bank of Nigeria and checks he used to issue or payments that he made to contractors of his government, including to Petitioner's husband, Mr. Srinivas Vadde, and can expound on the authenticity of the check he issued, should the law provide with funding for Petitioner and the Honorable Court and the Judges be willing to grant and provide funds for Mr. Sanusi to come and testify in this regard in favor of Petitioner if necessary.

Well, BofA anyway accepted Petitioner's check on 6/12/04 and honored it to credit/pay her account in the sum of $40,705.00, by 6/14/04. BofA however debited Petitioner's deposit account between 7/8/04 and 7/23/04 claiming return of Petitioner's check

deposited on 6/12/04. BofA has presented no proof that any dishonor of the check it alleges is based on anything other than hearsay/speculation from unknown/unidentified original root sources. ***BofA has no witnesses with first hand personal knowledge disclosed in discovery, corroborating that they were the original decision makers who decided to dishonor check after it was credited/paid on 6/14/04.*** There is no evidence from maker bank to irrefutably justify dishonor and there is no conclusively demonstrated default of Petitioner in this case.

BofA did not present any tangible evidence with a postmark or proof of mailing with a receipt for certified mail or overnight express mail/fax, for any notice of dishonor it claims to have mailed to Petitioner by the midnight of 7/9/04. BofA did not provide any notice of dishonor by the midnight of 6/14/04. BofA has not returned the original check to Petitioner by close of discovery around 2/9/07 and Petitioner has not consented to accept an image of the item (check) as a return of the item. Petitioner didn't get any notice of dishonor from BofA or Ulster Bank allegedly mailed by 7/9/04 and BofA hasn't proved to the contrary. So, uncontroverted by any proof of mailing from personal knowledge of any disclosed witness by close of discovery, Petitioner's statement from her personal knowledge suffices to act as proof of the absence of BofA giving any timely notice of dishonor by 7/9/04. None of Appellee's witnesses, whether Crystal Frierson or Michael Ware, could possibly have any personal knowledge on whether BofA gave any timely notice of dishonor by 7/9/04 or as per O.C.G.A § 11-4-301 and/or O.C.G.A § 11-4-302, because they hadn't personally dishonored check nor mailed such

notice. Petitioner has no burden of proof to present any defense to BofA's invalid claim for recoupment from her, for a check that has not been proven to be counterfeit at all, notwithstanding the fact that BofA never gave any timely notice of dishonor and had no right to charge back her account under the circumstances of this case. So, Petitioner is already discharged as per Section I of her MSJ. Further details/justification favoring Petitioner are given in Appendix H.

XI. ADDITIONAL CASE FACTS AND SPECIFIC ENUMERATION OF BANK ERRORS

1) ***Petitioner has no contractual obligation with BofA***/liability towards BofA. Details are presented in Section VIA of Appendix H.
2) ***Goods/Services are not needed to cash a capital check*** meant for incidental expenses. Details are presented in Section VIIA of Appendix H.
3) ***Petitioner is entitled to Summary Judgment.*** Details are presented in Section VIIIA of Appendix H.
4) ***Appellee wrongly dishonored Petitioner's check.*** Details are presented in Section IXA of Appendix H.
5) ***Appellee failed to give timely notice of dishonor to Petitioner.*** Details are presented in Section XA of Appendix H.
6) ***Appellee has no right of chargeback in this case.*** Details are presented in Section XIA of Appendix H.
7) ***Petitioner's defense of estoppel precludes BofA's recovery & extortion from Petitioner.***

Details are presented in Section XIIA of Appendix H.

8) ***BofA presented no evidence to justify dishonor of Petitioner's check.*** Details are presented in Section XIIIA of Appendix H.

9) ***BofA's witnesses have no personal knowledge.*** Details are presented in Section XIVA of Appendix H.

10) ***Petitioner deserves to be compensated by BofA.*** Details are presented in Section XIII of the main body of this Petition as well as Section XVA of Appendix H.

XII. REASONS FOR GRANTING THIS PETITION

(a) The very foundation of law being based on logic, reason, principles of natural justice, and objectivity, ***has been shattered by the baseless, whimsical, and erroneous State Court decisions in this case,*** subjecting the innocent Petitioner to untold and unnecessary misery, and ***must be rectified immediately***. (b) A United States Circuit Court/Court of Appeals has entered a decision previously that ***conflicts*** with the decision of the State Court in a similar important matter and has decided an important Federal Question in a way that ***conflicts*** with the decision by the State Court of last resort in this case; and the State Court in this case has so far ***departed from the accepted and usual course of judicial proceedings***, or so egregiously departed from the norms of commonsense, logic, and analytical reasoning, as to call for an exercise of this court's supervisory power. (c) Further, the Cobb State Court and Georgia Court of Appeals had erroneously ***attempted to cross their domains***

and infringe on others', to decide on important questions of ***what constitute objective metrics*** to determine ***whether or not an international check is fraudulent or counterfeit,*** and as to ***what constitutes a rightful or wrongful reason for dishonor,*** and ***what tangible and conclusive proof is needed to justify any dishonor***, for check clearance by banks, upon issuance ***of electronic cyberspace credit units*** (and ***not currency or cash***) for bank deposits, all of which are ***Federal civil issues*** to be taken up for Banks, ***between Government(s) and Banks***, and ***not to be taken up*** for depositors, or ***between Government and depositors***. (d) Such issues have not been, but should be, settled by this Court, as these issues have ***gone unaddressed*** by the Apex Court or ***incorrectly decided*** by lower courts in this case, ***in a way that conflicts with the United States Constitution*** and relevant decisions of this Court. (e) Petitioner believes and understands that issues in this case ***involve no criminal or civil liability of any kind*** for Petitioner under the circumstances of this case. (f) ***Certiorari must therefore be granted***, and BofA's case against Petitioner must be dismissed, and Petitioner's MSJ, Counterclaim, and claims against BofA must be granted, due to BofA's ***constitutional violations***, as well as the ***unconstitutionality,*** and ***inapplicability of statutes*** in this case. (f) Further reasons for granting this writ of Certiorari are as follows:

1) Since ***no reason had been given for the denials*** shown in Appendixes C & D, it is not possible for Petitioner to read the minds of the justices of the Supreme Court of Georgia to possibly assume reasonableness in view of the flagrantly

exhibited unreasonableness, or to figure out in an interpretive manner from "nothing/no evident problem", as to exactly what led them to deny her Petition for Certiorari earlier.

2) To date of this writing, the known laws of U.S and Georgia Commercial Code are equally applicable to U.S checks as well as international checks deposited in the United States, in Georgia. This case involved extremely sophisticated reasoning and complex analysis because there exist no established specific consistent metrics or separate laws that establish guidelines and govern dishonor of international checks (specifically on the issue of ***what constitutes a rightful or wrongful reason for dishonor*** and what tangible and conclusive proof is needed to justify any dishonor), other than the rules of evidence, and reasoning presented by Petitioner in relation to this case so far. BofA's actions clearly indicate that it had been attempting to get away with an unjustified hearsay opinion from unknown, unaccountable, and unreliable or unauthenticated root sources, in a dictatorial manner ***through misrepresentation*** (O.C.G.A § 23-2-52), with a conclusory allegation to be taken as a reason for dishonor, which is definitely not proof of BofA's allegations on Petitioner's checks. Anyhow, Petitioner has already sufficiently proved with logical reasoning through her pleadings that any alleged dishonor of BofA after honoring/accepting/crediting of Petitioner's check deposited was illegal (or not recognized legally), which constitutes hypothetical and/or wrongful dishonor. Therefore, ***Petitioner is not only discharged in this case, but BofA here is construed to be liable to pay Petitioner for hypothetical/wrongful dishonor of Petitioner's***

check, false/trumped up allegations against Petitioner, and abusive treatment of Petitioner in this case in past.

3) Conclusory allegations by way of Affidavits based on rumors, hearsay, and whimsical remarks or statements of BofA/Appellee or its attorney(s) and related banks and some of their officials that Petitioner's check is counterfeit because they said so, or somebody said it was so, even when none of the judges know who originally said it was so and why, cannot be taken as proof of allegations. ***One cannot take as proof that the assumption of BofA was correct all along when there is no tangible proof or measure or even a metric/benchmark legislated and defined, to draw that inference in an established conclusive manner.*** Hence, BofA needs to be sufficiently punitively sanctioned and be made to financially compensate Petitioner adequately for all the unnecessary harassment from BofA and lower Courts that Petitioner endured so far. Further reasons for granting this Writ are detailed in Appendix H and the remainder of this Petition.

XIII. PETITIONER DESERVES TO BE COMPENSATED BY BofA

Petitioner is afforded affirmative relief claimed through her counterclaim (R-383-472) & rebuttal to Appellee's MSJ (R-625-690; R-754-873; R-878-902) (that already have "offset" any liability to bank from Petitioner), and other pleadings of Petitioner which do not "offset" the bank's liability to pay Petitioner, on her claims and counterclaim against Appellee in this case. BofA has every liability towards Petitioner on her counterclaim (see

Section IX of MSJ), as her actual loss and proximate damages sought are directly ***caused by BofA's wrongful alleged dishonor of Petitioner's check, its failure to give a timely notice of dishonor, and due to its abusive litigation arising from the delay and/or missing out by the bank in sending the notice, according to laws such as*** UCC § 4-402, and/or O.C.G.A § 11-4-402, or/and O.C.G.A § 11-4-302, by virtue of acceptance of said check as per UCC § 3-413, and/or O.C.G.A § 11-3-413(a)(ii), and/or O.C.G.A § 11-5-111, etc. and other laws. Simply put, BofA's frivolous action and Court's erroneous decisions in past caused Petitioner to be the needless subject of a rumor mill of hearsay from BofA, ***which caused significant loss of employment opportunities and financial resources for Petitioner, as well as caused her needless anxiety, shock, worry, emotional trauma, pain and suffering, etc.***, due to libel/slander and defamation of reputation by BofA, for which Petitioner has sought financial relief & is seeking compensation of around $344,876.54+ to $1 Million+ U.S. Dollars for damages. Further elaborations are given in Section XVA of Appendix H.

XIV. CONCLUSION

Even if Petitioner cannot demonstrate the exact/perfect measure of damages suffered and can only quote to seek proximate damages of around $344,876.54+ to $1 Million+, as a fact finder, court can make a just and reasonable affirmation of this amount, based on reasons provided in Sections XII-XIII & Sections IIA-XVA of Appendix H. Raishevich v. Foster, 247 F3d 337 (2nd Cir. 2001).

WHEREFORE, ***Petitioner requests this honorable court to grant Certiorari and relief to the Petitioner as an Extraordinary Remedy*** and issue an Order within 90 to 180 days from the date of this Petition for Writ of Certiorari: (1) Granting Petitioner's MSJ and dismissing BofA's action with prejudice; (2) Ordering BofA to pay Petitioner the principal amount of $1376.54 plus accrued pre and post judgment interest from 7/8/04 (the day of wrongful debit & dishonor); (3) **Granting the recovery for Petitioner of proximate damages and costs of around $344,876.54+ to $1 Million+** (as is reasonable according to the Honorable Justices right away, based on her pleadings in this Writ, without need for any trial), plus legal pre and post judgment interest, from date of her MSJ in 2/07; and (4) Order BofA, and/or Courts, and/or legal agencies involved in this case issues to clear all related negative remarks on the check and account in this case, from Petitioner's credit reports, chex systems reports, and any/all other Banking/Financial, or other legal information sharing agencies, immediately.

Further, pursuant to Rule 16 of the U.S. Supreme Court and/or other laws, due to the complex, sensitive, and unique circumstances of the case issues involved here where Petitioner has already suffered significant financial hardship in the past for no reason, and since *Pro Se* Petitioner (who has been helped by her husband Srinivas Vadde in litigating this case from the start in 2006 and also in preparing this Petition) is currently out of town, ***Petitioner further requests*** that the honorable United States Supreme Court grant Petitioner ***an immediate summary disposition on this Writ of***

Certiorari reversing the Court of Appeals' interim affirmation of Cobb County State Court's decisions in this case, and grant an order awarding Petitioner immediate financial compensation of around $344,876.54+ to $1 Million+ U.S. Dollars, as an extraordinary remedy, ***without the necessity of oral arguments, and without any further waste of hers and her husband's valuable time in this case.***

Respectfully submitted,

Subbamma V. Vadde, Pro Se
2630 Garland Way
Duluth, GA 30096
U.S.A

APPENDIXES

PETITION FOR WRIT OF CERTIORARI

(U.S. Supreme Court Docket#)

(Based on Appeal from Court Errors in Court of
Appeals of Georgia Case# A09A1714
and Georgia Supreme Court Case# S10C0624)

Subbamma V. Vadde
Petitioner/Appellant

Vs.

Bank Georgia
Defendant/Appellee

APPENDIX A

Copy of interim Court of Appeals opinion document dated 11/20/09, erroneously affirming State Court of Cobb County's judgments of 2/4/09, denying Petitioner's MSJ and counterclaim while erroneously granting BofA's MSJ.

SECOND DIVISION
JOHNSON, P. J.,
ELLINGTON and MIKELL, **JJ.**

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
(Court of Appeals Rule 4 (b) and Rule 37 (b), February 21, 2008)
http://www.gaappeals.us/rules/

November 20, 2009

In the Court of Appeals of Georgia
A09A1714. VADDE v. BANK OF AMERICA
MIKELL, Judge.

Subbamma Vadde appeals pro se from the grant of summary judgment to Bank of America concerning her indebtedness under a bank account agreement. For the reasons set forth below, we affirm.

"To prevail on summary judgment under OCGA § 9-11-56, the moving party must demonstrate that there is no genuine issue of material fact and that the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law."[1] "On appeal from the grant of

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[1] ***Lau's Corp. v. Haskins*, 261 Ga. 491 (405 SE2d 474) (1991)**. With regard to Vadde's objection to the trial court's reliance on *Lau's Corp.* in its order granting summary judgment to Bank of America, we note that this Court and

summary judgment this Court conducts a de novo review of the evidence to determine whether there is a genuine issue of material fact and whether the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law."[2] So viewed, the evidence shows that on January 18, 2001, Vadde opened a regular checking account with Bank of America. When she opened the account, she signed a Personal Signature Card that bound her to the terms and conditions of the Deposit Agreement and Disclosures statement. The relevant portion of the Agreement provides as follows:

> Credit for items deposited is provisional and subject to revocation if the item is not paid for any reason. . . . If a deposited item is returned to us by the bank on which it was drawn, we may accept that return and charge the item back against your account without regard to whether the bank returned the item before its midnight deadline. At our option, and without notice to you that the item has been returned, we may resubmit any returned item for payment. You waive notice of dishonor and protest, and agree that we will have no obligation to notify you of any deposited item that is returned to us. . . . [W]e also reserve the right to charge back to your account the amount of any item deposited to your account or cashed for you which was initially paid by the payor bank and which is later returned to us due to an allegedly forged,

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many lower courts cite to *Lau's Corp.* because it established the standard for granting summary judgment to a movant.

[2] (Citations omitted.) ***Youngblood v. Gwinnett & c. Svc. Bd.*, 273 Ga. 715, 717-718 (4) (545 S.E.2d 875) (2001).**

unauthorized or missing endorsement, claim of alteration, encoding error or other problem which on our judgment justifies reversal of credit. . . . We are not obligated to pay an item presented if your account does not contain sufficient collected funds, but we may pay it at our option and charge you a fee. In addition, if payment is not received for any deposited item, the amount of the item will be charged back to your account and may create an overdraft, for which we will charge you a fee.

On June 14, 2004, Vadde deposited a check for 35,000 Euros (40,705 U. S. Dollars), drawn on the Ulster, Ireland bank account of "An Post Employees Credit Union LTD." The check was made payable to Vadde's husband, Srinivas Vadde, and also included his endorsement. Vadde's husband averred that he received the check from "Chief Joseph Sanusi, the then Governor of the Central Bank of Nigeria, for reimbursement of expenses and his capital while doing business with him and his government." According to Srinivas, the Nigerian government routinely uses foreign banks to pay their foreign contractors because Nigeria does not have an advanced banking system of its own. Sanusi assured Srinivas that the check was genuine, valid, and authentic.

Between June 16, 2004, and July 8, 2004, Vadde wrote checks, made cash withdrawals, and transferred all funds in excess of the deposit, including a $35,000 online transfer to her savings account, $23,000 of which she then wired to various money market accounts, naming

Srinivas Vadde as the beneficiary. Vadde also wrote checks to herself totaling $13,000. On July 8, 2004, the check was dishonored by the Ulster bank and returned to Bank of America. On that same date, Bank of America charged back the item to Vadde's account and sent her an advice of debit notice, indicating that the amount of $43,397.50 had been returned due to fraud. As a result of the chargeback, Vadde's account was overdrawn in the amount of $42,200.96. On April 7, 2006, Bank of America sued Vadde for this amount plus interest. Vadde filed an answer and counterclaim, alleging that Bank of America was indebted to her for the amount of the check plus costs, for a total damage claim of approximately $344,876.54. Vadde also sought dismissal of the complaint and an award of summary judgment on her counterclaim. The trial court granted Bank of America's motion for summary judgment, denied Vadde's motion for summary judgment, and dismissed her counterclaim with prejudice.[3]

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[3] In its motion for summary judgment, Bank of America noted that Vadde may have been a victim, knowingly or unknowingly, of a Nigerian check scheme, similar to a 419 advance fee scam (the numbers "419" refer to the section of the Nigerian penal code addressing such fraudulent schemes). The scheme begins when a person is contacted by e-mail and advised that if she endorses and deposits a foreign check into her checking account and then wires funds to another individual, the depositor may keep a portion of the funds from the check for herself. After the victim acts as instructed, the bank notifies her that she has passed a counterfeit check. At this point, the victim already has wired funds from her account, and is liable for the overage. These schemes are widely documented on the internet. See *http://en.wikipedia.org/wiki/Advancefee_fraud*; *http://www.secretservice.gov/alert419.shtml*.

1. In related enumerations of error, Vadde challenges several evidentiary and discovery rulings by the trial court. We find no error.

(a) Vadde contends that the trial court should have granted her motions in limine to "exclude prejudicial hearsay information." Vadde does not specify the hearsay information in her enumeration of error and after listing a string of citations, argues that further justification for this enumeration of error is given in her rebuttal to Bank of America's response to her motions in limine. Vadde's failure to provide any cogent argument or citation of authority in support of this alleged error constitutes a waiver.[4] Even if the argument had not been waived, it is meritless. "A trial court's ruling on a motion in limine is reviewed for abuse of discretion."[5] To the extent Vadde is challenging the admission of Crystal Frierson's affidavit, filed in support of Bank of America's motion for summary judgment, her challenge fails. The affidavit was admissible under **OCGA § 24-3-14**, which provides that:

> [a]ny writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event shall be admissible in evidence in proof of the act, transaction, occurrence, or event, if the trial judge shall find that it was made in the

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[4] ***Hicks v. Newman*, 283 Ga. App. 352, 353 (641 SE2d 589) (2007).**

[5] (Citation and punctuation omitted.) ***Biederbeck v. Marbut*, 294 Ga. App. 799, 804 (4) (670 SE2d 483) (2008).**

> regular course of any business and that it was the regular course of such business to make the memorandum or record at the time of the act, transaction, occurrence, or event or within a reasonable time thereafter.[6] This Code section is to be liberally interpreted and applied.[7] In this case, Frierson averred that she is the custodian of records for Bank of America and that the records filed in conjunction with her affidavit are "maintained in the regular and ordinary course of business and that the transactions that appear in the record are recorded contemporaneously with the events as they occur." Accordingly, the affidavit was admissible and the trial court did not abuse its discretion in failing to grant Vadde's motions in limine.[8]

(b) Vadde contends that the trial court should have granted her motion to compel discovery and motion for sanctions. Vadde argues that Bank of America failed to respond completely to her first interrogatories; gave evasive, false, and self-contradictory answers to her first request for admissions; and failed to respond to her second interrogatories and requests for admission. Vadde does not specify what information she sought from Bank of America or what may have been established

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[6] **OCGA § 24-3-14**.

[7] **OCGA § 24-3-14**. See also ***Hertz Corp. v. McCray*, 198 Ga. App. 484, 485 (2) (402 SE2d 298) (1991)** ("[a] witness identifying business records under **OCGA § 24-3-14** does not have to have personal knowledge of the correctness of the records or have made the entry [herself]") (citations omitted).

[8] See, e.g., ***Davis v. Harpagon* Co., 283 Ga. 539, 541 (2) (661 SE2d 545) (2008)**.

by its responses; rather, Vadde again argues that compelling arguments are given in her motion for sanctions and related rebuttals.

"Trial courts have broad discretion to control discovery, including the imposition of sanctions, and will not be reversed in the absence of a clear abuse of discretion."[9] "Also, to prevail on appeal, [Vadde] must show that the alleged error was harmful."[10] Because Vadde has failed to allege or demonstrate any harm caused by the trial court's decision, we find this enumeration of error to be without merit.

(c) Vadde next contends that the trial court erred in denying her motion to record all proceedings and her request for waiver of motions hearing. According to Vadde, neither party requested a hearing on Bank of America's motion for summary judgment and the trial court erred in ordering both parties to appear when it could have ruled on the briefs.

Uniform Superior Court Rule 6.3 provides:

. . . [O]ral argument on a motion for summary judgment shall be permitted upon written request made in a separate pleading bearing the caption of the case and entitled "Request for Oral Hearing,". . . provided that such pleading is filed with the motion

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[9] (Citation omitted.) ***Garner v. Roberts*, 238 Ga. App. 738, 740 (1) (520 SE2d 255) (1999).**

[10] (Citation omitted.) ***Brown v. Brewer*, 237 Ga. App. 145, 148 (3) (513 SE2d 10) (1999).**

for summary judgment or filed not later than five (5) days after the time for response.

"Under this rule, whether oral argument is heard is within the power of the parties, and is not left to the discretion of the trial court. All a party need do is make a written request for oral argument and it shall be held."[11] "[A] court's error in failing to grant a hearing can never be held harmless."[12] While Vadde is correct that a trial court may decide a motion for summary judgment without oral argument,[13] Vadde cites no authority that prohibits a trial court from scheduling a hearing on a motion for summary judgment even though one has not been requested. Accordingly, the trial court did not err in denying Vadde's request for waiver of motions hearing.

Additionally,

> [w]hile **OCGA § 5-6-41 (j)** provides that any party in a civil case may, as a matter of right, have a case reported at his expense, it is not incumbent upon the trial judge to arrange for the official reporter to take down the evidence at such a hearing. Moreover, the law does not mandate that every civil case be reported.[14]

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[11] (Citation and punctuation omitted.) ***Southern Empire Homes v. Ognio Grading,*** **277 Ga. App. 215, 216 (626 SE2d 173) (2006).**

[12] (Footnote omitted.) ***Hunt v. Thomas,*** **296 Ga. App. 505, 506 (1) (675 SE2d 256) (2009).**

[13] ***Val Preda Motors v. National Uniform Svc.,*** **195 Ga. App. 443, 444 (3) (393 SE2d 728) (1990).**

[14] (Citation and punctuation omitted.) ***Quarterman v. Weiss,*** **212 Ga. App. 563 (1) (442 SE2d 813) (1994).**

Vadde had notice of the hearing and could have arranged for a court reporter to be present at this hearing. The trial court advised Vadde that a court reporter was available, but Vadde presumably chose not to avail herself of the transcription service. The trial court did not err in denying Vadde's motion to record all proceedings.

2. In other related enumerations of error, Vadde contends that the trial court erred in denying her motion to dismiss and motion for judgment on the pleadings, and in granting summary judgment to Bank of America. In support of this challenge, Vadde contends that (1) she did not know that the check would be dishonored at the time it was written; (2) she believes the check is "honorable to the best of her personal knowledge"; (3) Bank of America honored the check on the date it was deposited; (4) there is no evidence that the check was ever presented to the Ulster bank or that the Ulster bank dishonored the check; and (5) the trial court's ruling rests "on the presumption that checks can be dishonored at the subjective whims and dictates of people lawlessly, and without reason." Vadde contends that Bank of America's failure to honor the check was based on "unjustified speculation and inadmissible hearsay without any valid reason or tangible evidence." Vadde also contends that she is entitled to summary judgment because Bank of America violated the UCC's rules governing bank deposits and collections, **OCGA § 11-4-101 et seq.**, in that it failed to notify her of a problem with the check by midnight of June 14, 2004, and has not presented any evidence proving that it mailed the Advice of Debit on July 9, 2004; thus, Bank of America is indebted to her for the amount of the check. Vadde is mistaken.

"The UCC permits parties to a contract of deposit to agree between themselves as to their duties and the legal consequences which flow therefrom. An account agreement is controlling unless it is manifestly unreasonable."[15] In this case, the provisional clause of the Deposit Agreement and Disclosures statement was not unreasonable and allowed Bank of America to charge back the amount of the check at issue to Vadde's account upon its return from the Ulster bank as fraudulent.

Moreover, Bank of America's actions complied with the UCC. Under **OCGA § 11-4-214**,

[i]f a collecting bank has made provisional settlement with its customer for an item and fails by reason of dishonor, suspension of payments by a bank, or otherwise to receive settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account, or obtain refund from its customer, whether

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[15] (Citations and punctuation omitted.) ***Freese v. Regions Bank, N.A.*, 284 Ga. App. 717, 720-721 (644 SE2d 549) (2007)**. See **OCGA § 11-4-103 (a)**. The official comments to **UCC § 4-103** provide:

Subsection (a) confers blanket power to vary all provisions of the Article by agreements of the ordinary kind. The agreements may not disclaim a bank's responsibility for its own lack of good faith or failure to exercise ordinary care and may not limit the measure of damages for the lack or failure, but this subsection like Section 1-102 (3) approves the practice of parties determining by agreement the standards by which the responsibility is to be measured. In the absence of a showing that the standards manifestly are unreasonable, the agreement controls.

or not it is able to return the item, if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. If the return or notice is delayed beyond the bank's midnight deadline or a longer reasonable time after it learns the facts, the bank may revoke the settlement, charge back the credit, or obtain refund from its customer, but it is liable for any loss resulting from the delay. These rights to revoke, charge back, and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final. Under the UCC, Bank of America was the "collecting bank" for the check at issue, and, therefore, was Vadde's agent for the collection of the check until "final settlement" was made, i.e., until the check ultimately was paid by the payor bank (here, the Ulster bank).[16] In the meantime, under **OCGA § 11-4-201 (a)**, the risk of non-collection remained with Vadde and any settlement made on the check by Bank of America was provisional only. Accordingly, when the payor bank discovered the fraud, and refused to make a final settlement on the check, Bank of America was authorized to revoke the provisional settlement made on the check and charge back Vadde's account.[17]

Vadde contends that "**OCGA § 11-4-214** . . . is superseded by . . . **OCGA §§ 11-4-301**, and/or **11-4-302** . . . , since charge back of an honored check is

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[16] **OCGA §§ 11-4-105 (3), (5); 11-4-201 (a).** See ***First Nat. Bank of St. Paul v. Trust Co. of Cobb County*, 510 F.Supp. 651, 654 (N. D. Ga. 1981).**

[17] See ***First Ga. Bank v. Webster*, 168 Ga. App. 307, 309 (2) (308 SE2d 579) (1983)** (decided under former **OCGA § 11-4-212**).

barred by a subsequent wrongful dishonor without giving a timely notice of dishonor." Vadde is wrong. **OCGA §§ 11-4-301** and **11-4-302** apply to the payor bank, not the collecting bank.[18] Moreover, as discussed above, Bank of America's actions were permissible under the terms of the Deposit Agreement and Disclosures statement signed and agreed to by Vadde, as well as **OCGA § 11-4-214**. Additionally, Bank of America's evidence demonstrates that it notified Vadde that the check had been "returned due to fraud" on July 8, 2004, the same date it received notification from the payor bank that the check was counterfeit. **OCGA § 11-4-202** provides as follows:

> (a) A collecting bank must exercise ordinary care in: (1) Presenting an item or sending it for presentment; (2) Sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor after learning that the item has not been paid or accepted, as the case may be; [and] (3) Settling for an item when the bank receives final settlement. . . .

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[18] Vadde contends that Bank of America is a depositary bank or payor bank. While Bank of America is a payor bank in certain transactions, in this particular transaction, Bank of America was a collecting bank. See **OCGA § 11-4-105 (2)**, **(3)** and **(5)**, which provide:

> (2) "Depositary bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter; (3) "Payor bank" means a bank that is the drawee of a draft; . . . (5) "Collecting bank" means a bank handling an item for collection except the payor bank.

> (b) A collecting bank exercises ordinary care under subsection (a) of this Code section by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.[19] Bank of America demonstrated that it satisfied this Code section. The only evidence in the record that such a notice was not sent is Vadde's self-serving statements, which are insufficient to raise a genuine issue of material fact.[20]

We also reject Vadde's claims that Bank of America is not entitled to summary judgment because she did not know that the check was counterfeit at the time she deposited it and to the best of her knowledge the check is genuine and authentic. First, Vadde cites no authority, and our research reveals none, holding that ignorance of a fraud or counterfeit is a defense to a collecting bank's claim for recoupment. Second, when Vadde signed the Deposit Agreement and Disclosures statement, she expressly agreed that "[c]redit for items is

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[19] Compare ***Clements v. Central Bank of Ga.*, 155 Ga. App. 27, 29-31 (1) (270 SE2d 194) (1980)** (delay in notification unreasonable as a matter of law where payor bank notified collecting bank of non-acceptance on September 29, and collecting bank waited more than one month to notify endorser of check).

[20] ***Jones v. Bank of America Mtg.*, 254 Ga. App. 217, 219 (1) (561 SE2d 867) (2002)** (where plaintiff/bank's records conclusively demonstrated default, defendant's self-serving, conclusory affidavit stating that he was not in default was not supported by fact or circumstances, and, therefore, was insufficient to raise a genuine issue of material fact).

provisional and subject to revocation if the item is not paid for *any reason*." Third, Sanusi's statements to Srinivas Vadde assuring him that the check was genuine, authentic, and valid is impermissible hearsay and cannot be considered in a summary judgment proceeding.[21]

As for Vadde's claims that the Bank dishonored the check based on a whim, there is no evidence in the record to support this assertion, except for Vadde's self-serving averments that the check was a legitimate check given to her husband by a supposed prominent Nigerian banker.[22]

The bottom line is that the money was never Vadde's to spend. Mr. Sanusi, a supposed trusted friend and well-respected international banker, issued to Vadde's husband an invalid, fraudulent, and counterfeit check, which Bank of America properly and timely dishonored as provided by the UCC and according to its contract with Vadde. As a matter of law, the trial court did not err in granting summary judgment to Bank of America, in denying summary judgment to Vadde, and in dismissing Vadde's counterclaim with prejudice.

Judgment affirmed. Johnson, P. J., and Ellington, J., concur.

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[21] See ***White Missionary Baptist Church v. Trustees of First Baptist Church*, 268 Ga. 668, 669 (1) (492 SE2d 661) (1997).**

[22] ***Jones*, supra.**

APPENDIX B

Copy of Notice from the Clerk of the Court of Appeals, dated 12/09/09, on Petitioner's Motion for Reconsideration, submitted to the Georgia Court of Appeals effective 11/30/09.

Court of Appeals
of the State of Georgia

ATLANTA, DEC **09 2009**

The Court of Appeals hereby passes the following order:

A09A1714. VADDE v. BANK OF AMERICA.

Bank of America brought this action against customer Subbamma Vadde seeking to recover overdrawn funds in excess of $42,000, which resulted when a check deposited by Vadde in the amount of $40,705 was returned on July 8, 2004, due to fraud. On appeal, we affirmed the trial court's order which granted summary judgment to Bank of America, denied summary judgment to Vadde, and dismissed Vadde's counterclaim with prejudice, on the ground that Bank of America's actions were permissible under the terms of the Deposit Agreement and Disclosures statement signed and agreed to by Vadde. Vadde has filed a motion for reconsideration, repeating many of the same arguments asserted in her original brief and attacking this Court's legal citations as inapplicable to this case. In addition, Vadde has raised two "new" arguments, namely that (1) she is not bound by the terms of the Deposit Agreement and Disclosures statement because Bank of America closed her account on or around August 2004, before this case was filed, and (2) there is no evidence in the record that the Ulster Bank dishonored the check.

Vadde's "new" arguments are wrong. First, the Deposit Agreement and Disclosures statement was in effect *at the time* her account was overdrawn; for purposes of this case, it is immaterial that the account had been closed at the time the action was filed on April 7, 2006. Second, the affidavit of Bank of America's custodian of records, stating that "Bank of America was notified by the [Ulster Bank] that the check had been returned unpaid as a counterfeit item," and the bank records attached to the affidavit reflecting the same, are affirmative evidence establishing that the Ulster Bank dishonored the check; Vadde's statements to the contrary are insufficient to create an issue for trial.[1] We also reject Vadde's attacks on the legal citations in our opinion. The cited cases are used to support the various *legal propositions* set forth in our opinion and it is inconsequential that they do not mirror the facts of this case.

Vadde has not demonstrated that we overlooked a material fact in the record or misapplied controlling authority. Accordingly, her motion for reconsideration in the above-referenced appeal is hereby DENIED.

Court of Appeals of the State of Georgia
Clerk's Office, Atlanta **DEC 09 2009**
I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia. Witness my signature and the seal of said court hereto affixed the day and year last above written.
s/[Illegible] William L. Martin, Clerk.

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[1] See, e.g., *Foster v. Ramsey*, 245 Ga. App. 11 8-119 (I) (536 SE2d 550) (2000).

APPENDIX C

Copy of Notice Dated 4/19/10 on Petitioner's *Petition for Writ of Certiorari* dated 12/23/09, from The Supreme Court of Georgia.

SUPREME COURT OF GEORGIA
Case No. S10C0624

Atlanta, April 19, 2010

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

SUBBAMMA V. VADDE v. BANK OF AMERICA

The Supreme Court today denied the petition for certiorari in this case. All the Justices concur.

Court of Appeals Case No: A09A1714

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.
s/[Illegible], Therese S. Barnes, Clerk.

APPENDIX D

Copy of Notice Dated 5/17/10 on Motion for Reconsideration and Stay of Remittitur, dated 4/27/10, Upon Petition for Certiorari, from The Supreme Court of Georgia.

SUPREME COURT OF GEORGIA
Case No. S10C0624

Atlanta, May 17, 2010

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

SUBBAMMA V. VADDE v. BANK OF AMERICA

Upon consideration of the Motion for Reconsideration filed in this case, it is ordered that it be hereby denied.

All the Justices concur.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.
s/[Illegible], Therese S. Barnes, Clerk.

SUPREME COURT OF GEORGIA
Case No. S10C0624

Atlanta, May 17, 2010

The Honorable Supreme Court met pursuant to adjournment. The following order was passed.

SUBBAMMA V. VADDE v. BANK OF AMERICA

Upon consideration of the Motion to Stay Remittitur filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.
Witness my signature and the seal of said court hereto affixed the day and year last above written.
s/[Illegible], Therese S. Barnes, Clerk.

APPENDIX E

Exhibit USSCPR1: List of Significant Political and Social Honors of Petitioner's husband, Srinivas Vadde (please see the following website for details: http://www.scribd.com/doc/32210054/Srinivas-V-Vadde-s-Significant-Political-and-Social-Honors-and-Other-Awards).

1) Received letter from Texas Governor, and United states President Elect George W. Bush, dated January 16th, 2001 thanking Srinivas V. Vadde on behalf of himself and Dick Cheney, for his leadership, energy, and generous commitment of time which were crucial for the success of his year 2000 Presidential campaign.
2) Certificate of Appreciation awarded on 12th of January 2001 by the Republican National Committee to Srinivas V. Vadde, by the Republican Party and RNC Chairman Jim Nicholson, in recognition of his contributions, including dedication and leadership of the Republican National Committee as a sustaining member that helped elect a Republican President and Congress and a Majority of Governors and State Legislators.
3) Certificate of Merit and highest honor bestowed by RNC Presidential Victory Team awarded on 26th of November 2001 by Fred Myer, RNC Presidential Victory Team Chairman, and Governor James Gilmore, RNC Chairman, on behalf of President George W. Bush and the Republican Party to Srinivas V. Vadde, for dedication sacrifice and commitment.
4) Certificate of Membership 2004 awarded on 28th of January 2004 by the Bush- Cheney '04 team to

Srinivas V. Vadde as its highest honor as a recognized Marshall from Georgia, for dedication sacrifice and commitment to President George W. Bush and Vice President Richard B. Cheney.

5) Certificate of Membership 2004 and Platinum Member Status of the Republican Presidential Task Force conferred upon Srinivas V. Vadde by Senate Majority Leader, Senator Bill Frist, M.D., and Jay Timmons, Executive Director of the Republican Presidential Task Force for steadfast support to President George W. Bush and for representing the highest Republican ideals and principles.
6) Invitation to Srinivas Vadde in 2004 from Senate Majority Leader Bill Frist inviting him to join the Republican Leadership Foundation as a Founding Member.
7) Invitation to Srinivas Vadde by U.S. House of Representatives to serve as Chairman of the House Majority Trust and attend the 2004 President's Dinner on June 1st, 2004.
8) Srinivas V. Vadde nominated and approved for inclusion in the 2004 Presidential Election Registry on June 6th, 2004 (5 months prior to the actual Presidential elections in November of 2004), by the Chairman and the Executive Committee of the National Republican Congressional Committee for Extraordinary dedication and Service to President George W. Bush, the Republican Party and the United States of America.
9) Srinivas V. Vadde awarded the 2004 Ronald Reagan Republican Gold Medal and Businessman of the Year award for being a respected and distinguished business leader in Georgia and a key member of the Republican

Business Advisory Council who contributed to the economic health of the community. Congratulatory letters from Congressman and Majority Leader Tom Delay dated October 8th, 2004 and 16th February, 2005, acknowledging Srinivas V. Vadde's contribution of insight and expertise to keep the economy growing at paces through a working partnership between business and government.

10) Received letter from reelected United States President George W. Bush, dated December 21st, 2004 thanking Srinivas V. Vadde on behalf of himself, Vice President Dick Cheney and first lady Laura Bush, for his great help and steadfast support playing a critical role in the 2004 United States Presidential elections which were crucial for the success of his year 2004 Presidential elections victory.
11) Invitation to Srinivas Vadde from The House Majority Trust requesting his presence to attend and participate in the Inauguration of George W. Bush as President of the United States of America, and Richard B. Cheney as Vice President of the United States of America on Thursday, the 20th of January, 2005, in the City of Washington, D.C., USA.
12) Certificate of Membership awarded to Srinivas V. Vadde in January 2005 conferring upon him The RNC Presidential Victory Team Charter Member Status.
13) Received invitation from the National Republican Congressional Committee and Chairman Tom Reynolds to join them for The 2005 President's Dinner with the President of the United States, George W. Bush.

14) Srinivas V. Vadde selected to receive Life Membership in the Republican Presidential Task Force by the Executive Committee around February 15th 2005.
15) Srinivas V. Vadde selected for inclusion in the Republican presidential Honor Roll by the Executive Council of the National Republican Congressional Committee, April 1, 2005.
16) Received letter of invitation from Speaker of The House Dennis Hastert dated April 16th, 2005, informing that Srinivas V. Vadde's name was placed in nomination and accepted for membership as an Honorary Chairman from the State of Georgia for 2005, by the Executive Committee of the House Majority Trust, to work hand in hand-in-hand with President Bush and the Leadership of the Republican Party in advancing a powerful agenda of lower taxes, strong national security and common sense values.
17) Received letter of invitation from Senate Majority Leader Bill Frist and Speaker of House Dennis Hastert dated April 21st, 2005 inviting Mr. Srinivas V. Vadde to Washington, D.C., for the President's dinner on June 14th 2005, to be honored for his work in the 2004 elections.
18) Invitation to Srinivas Vadde by U.S. House of Representatives to serve as Chairman of the House Majority Trust and attend the 2005 President's Dinner on April 29th, 2005.
19) Srinivas V. Vadde included in the Republican Presidential Honor Roll by the Chairman and Executive Committee of the National Republican Congressional Committee, Mr. Tom Delay (Majority Leader), Mr. Dennis Hastert (Speaker

of the House), and Mr. Tom Reynolds (Chairman), on June 10th 2005.

20) Invitation to Srinivas V. Vadde from the US. House and U.S. Senate for the President's Dinner on June 14th 2005, Washington Convention Center, 801 Mount Vernon Place, NW, Washington, D.C., USA.

21) Invitation to Srinivas V. Vadde from Senator Elizabeth Dole, Chair of the Republican Senatorial Committee for the 11th Annual Senate Majority Celebration Honoring Vice President Dick Cheney, on September 28th 2005, National Building Museum, 401 7th Street, NW, Washington, D.C., 20001, USA.

22) Received letter from Georgia Governor Sonny Perdue seeking/requesting Srinivas V. Vadde's support again for his reelection campaign in 2006, an election for which Governor Sonny Perdue enlisted Mr. Vadde's support and won again.

23) Invitation to Srinivas V. Vadde from the US. House of Representatives to serve as an Honorary Chairman from the State of Georgia of the House Majority Trust, and invitation to the President's Dinner on 5/8/06, in Washington, D.C., USA.

24) Congressional Order of Merit Award conferred upon Srinivas V. Vadde on 26th day of May, 2006 in Washington, D.C., by the Chairman, Tom Reynolds, and Executive Council of the National Republican Congressional Committee for patriotic loyalty, dedication of service to President George W. Bush, the Republican Party and the United States of America.

25) Republican Senatorial Inner Circle invitation to Srinivas V. Vadde by Senator Elizabeth Dole on

Behalf of the Republican Leadership of The United States Senate and the President of the United States, to Join the Republican Senatorial Inner Circle and attend the 2006 President's Dinner, on June 19th, 2006 in Washington, D.C., USA.

26) Received letter from Chairman Tom Cole on behalf of the Republican leaders in the United States House of Representatives, dated February 7th, 2007, informing that Srinivas V. Vadde's name was placed in nomination and accepted for membership as an Honorary Chairman from the State of Georgia by the House Republican Trust, and invitation to the "2007 Republican Business Summit", to receive the "Business Leader of the Year Award" in recognition of Srinivas V. Vadde's activism and determination to help the leaders shape a bold new future for our nation.

27) Invitation to Srinivas V. Vadde from the US. House of Representatives for the 2007 President's Dinner on May 9th 2007, and to serve as an Honorary Chairman of the House Republican Trust in Washington, D.C., USA.

28) Srinivas V. Vadde placed in nomination by the Republican Members of the U.S. House of Representatives to serve as a Delegate from the State of Georgia to The House Republican Trust's 2007 Republican Candidate's Convention, October 29th and 30th, Washington, D.C., USA.

29) Invitation to Srinivas V. Vadde by The Republican Members of the U.S. House of Representatives to serve as a member of the House Republican Trust representing Georgia at the Tenth Annual Tax Summit and the NRCC March Dinner featuring President George W.

Bush, on March 12th and 13th, 2008, in Washington, D.C., USA.

30) Srinivas V. Vadde awarded the National Republican Congressional Committee Executive Council's honor of 2008 Presidential Commission, on February 22, 2008 for Mr. Vadde's representation of the best the Republican Party has to offer, in terms of dedication to our President, our Congressional Leadership, Republican Ideals and most importantly, a sense of responsibility to our nation that is evidenced by actions, not merely words. Received the Official Presidential Commission Certificate prepared on May 2, 2008.

31) Srinivas V. Vadde offered membership in American Center for Law and Justice (ACLJ), Washington, D.C., for commitment to protecting religious liberties, constitutional freedom, and the rights of individuals, 2005-present.

32) Srinivas V. Vadde offered/received membership in America's Foundation, 2006-present.

33) Srinivas V. Vadde offered/received membership in The Speaker's Citizen Task Force, 2003-present.

34) Srinivas V. Vadde offered/received Life Membership by the Members of the United States Congress and invited for induction into Life Membership of the National Republican Congressional Committee, 3/28/08, National Republican Congressional Committee, 320 First Street, SE, Washington, D.C., 20003, U.S.A.

35) Srinivas V. Vadde placed in nomination for the 2008 Platinum Membership in The Republican Presidential Task Force by the Executive committee of the National Republican Senatorial

Committee and the Chairman, Senator John Ensign, May 5, 2008, Republican Presidential Task Force, 425 Second Street, NE, Washington, D.C. 2008, U.S.A.

36) 2008 Certificate of Appreciation granted to Srinivas V. Vadde on 4th of September, 2008 by RNC Co-Chairman Jo Ann Davidson and RNC Chairman Mike Duncan, in grateful recognition of his distinguished service for demonstrating selfless devotion to the cause of limited government, lower taxes, a strong national defense, and individual freedom and personal responsibility, as the foundations of American Government.

37) 2010 Certificate of Merit awarded to Srinivas V. Vadde on 19th of February, 2010, by the Republican National Committee Chairman Michael Steele and Ambassador Peter Terpeluk, for Dedication, Sacrifice, and Commitment to the Republican Party and efforts to elect the next Republican President of the United States in 2012.

Exhibit USSCPR2: List of Significant Political and Social Honors of Petitioner, Subbamma Vadde (please see the following website for details: http://www.scribd.com/doc/33759441/Subbamma-Vadde-s-Political-and-Social-Honors-Other-Awards).

1) Received letter from reelected United States President George W. Bush, dated December 21st, 2004 thanking Subbamma V. Vadde on behalf of himself, Vice President Dick Cheney and first lady Laura Bush, for her great help and steadfast support playing a critical role in the 2004 United States Presidential elections which were crucial for the success of his year 2004 Presidential elections victory.
2) Subbamma V. Vadde Awarded Certificate of Recognition on April 4th, 2003, by President George W. Bush and RNC Chairman Marc Racicot for her support for Republican principles of lower taxes, fiscal responsibility, individual freedom, and strong national defense. Certificate was presented in grateful acknowledgment of Subbamma Vadde's financial commitment, dedication, and leadership for having helped in electing a Republican majority in the U.S. Congress, a majority of Governors and State Legislators, and for having helped lay a foundation for winning in 2003-2004.
3) RNC Presidential Victory Team, President George W. Bush, and Chairman Fred Myer bestowed their highest honor on Subbamma V. Vadde as a recognized leader in Georgia on 29th of October, 2003, for her dedication, sacrifice, and commitment to the Republican Party and GOP candidates at all levels of Government.

4) Certificate of Membership 2004 awarded on 28th of January 2004 by the Bush-Cheney '04 team to Subbamma V. Vadde as its highest honor as a recognized Marshall from Georgia, for dedication sacrifice and commitment to President George W. Bush and Vice President Richard B. Cheney.
5) 2004 Certificate of Appreciation granted to Subbamma V. Vadde on 5th of March, 2004 by RNC Chairman Ed Gillespie and President George W. Bush, in grateful acknowledgment of her financial commitment and devotion to the cause of limited government, lower taxes, and individual freedom and personal responsibility, as the foundations of American Government.
6) Invitation to Subbamma V. Vadde from the Republican National Committee President's Club to attend the 2004 Winter National Meeting.
7) Subbamma V. Vadde invited by RNC Chairman Ed Gillespie and the entire Leadership of the National Republican Party to join as a founding member of the Republican Presidential Trust in 2004, because of her personal leadership and unselfish support to nationwide Republican victories from the Courthouse to the White House on election day.
8) Subbamma V. Vadde awarded Affidavit of Life Membership by the Republican National Committee in 2004 and 2008 for her steadfast commitment and distinguished service to the Republican Party, earning the lasting gratitude not only of President George W. Bush and all Republicans, but of every American.
9) Subbamma V. Vadde received the Presidential Inaugural Committee Commemorative Invitation inviting her presence for the 55th inauguration of the President and Vice President of the United

States of America. Invited to attend and participate in the inauguration of George W. Bush as President of the United States of America, and Richard B. Cheney as Vice President of the United States of America on Thursday, the 20th of January, 2005, in the City of Washington, D.C., USA.

10) 2005 Certificate of Appreciation granted to Subbamma V. Vadde on 18th of March, 2005 by RNC Chairman Ken Mehlman, President George W. Bush, and Vice President Dick Cheney, in grateful acknowledgment of her financial commitment and devotion to the cause of limited government, lower taxes, and individual freedom and personal responsibility, as the foundations of American Government.

11) Invitation to Subbamma V. Vadde from the US. House of Representatives for the 2007 President's Dinner on May 9th 2007, and to serve as an Honorary Chairman of the House Republican Trust in Washington, D.C., USA.

12) Subbamma V. Vadde placed in nomination by the Republican Members of the U.S. House of Representatives to serve as a Delegate from the State of Georgia to The House Republican Trust's 2007 Republican Candidate's Convention, October 29th and 30th, Washington, D.C., USA.

13) Subbamma V. Vadde invited by RNC Chairman Mike Duncan and the entire Leadership of the National Republican Party to join as a founding member of the RNC Presidential Trust in 2008, because of her personal leadership and unselfish support time and again to nationwide Republican victories from the Courthouse to the White House on election day.

APPENDIX F

Exhibit USSCPR3: List of Defense witnesses that could testify or depose, if necessary, and their scope of testimony in favor of Petitioner, Subbamma Vadde, and her claims against BofA.

Defense Witness 1

Mr. Joseph Sanusi
Former Governor of Central Bank of Nigeria
15 Ilori Street, Ire Akari Estate
Isolo, Lagos, Nigeria
Phone: 2348033238551

Alternate Address:
Mr. Joseph Sanusi
Former Governor of Central Bank of Nigeria
Central Bank of Nigeria
P.M.B 0187
15 Zaria Street, Garki, Abuja, Nigeria

Scope of Testimony or Deposition: Mr. Joseph Sanusi can testify or state his business connections with Petitioner's husband and the Government of Nigeria. Mr. Joseph Sanusi can declare that he was the individual who directed his colleague, Mr. Peter Omar, to mail the Ulster Bank check involved in this case to Petitioner's husband, Srinivas Vadde. Mr. Joseph Sanusi can also testify/state the sources and origins of the check and declare/assure that it is genuine and honorable, and that it was payable immediately to Srinivas Vadde or Petitioner as depositor/endorser without any problems at its time of issuance prior to this case in 2004. Mr. Joseph Sanusi can also state what his connections were/are with the Nigerian government, the American, Irish, and European governments, and the U.S, U.K.,

Irish/European, Indian, and the Nigerian secret services in the performance of his duties as a Governor, or former Governor of Central Bank of Nigeria (CBN) who handed over payment responsibilities to the next CBN governor, Mr. Charles Soludo, before leaving office in May 2004/June 2004 (please see official CBN press release in Exhibit USSCPR4 of this Appendix), while making large scale financial payments, in capital/funding and contract payments to Contractors like the Petitioner's husband and Oil & Gas companies all over the world. Mr. Joseph Sanusi can also state his connections with American Oil Businesses and World Oil Businesses such as Exxon Mobil, Chevron Texaco, BP (British Petroleum), Shell (Royal Dutch Shell), etc. Mr. Sanusi can also elaborate on his claim and belief that although he is a prominent Nigerian and African Banker, the checks he issued in the past have at times been the target of discrimination/rumors/hearsay and prejudice from some banks such as BofA, due to him being Black and African, a disadvantaged minority considered imperfect by some, and due to the age old racial slave-era animosity/differences between some Whites and Blacks. As a financial intellectual who was involved in governing the Federal Reserve of Nigeria and its foreign exchange banking transactions all over the world, Mr. Joseph Sanusi has several political connections related to world economies in various world governments, including in the U.S, U.K, European Union, and India, as well as Russia & Japan. Mr. Joseph Sanusi can state how Petitioner's husband was recommended as an eminent and enterprising individual with intellectual acumen and financial knowledge worthy

of being awarded large scale (big business) or big government contracts, through diplomatic channels and world governments, including the United States Government, in a confidential manner. Mr. Sanusi can add that although he is a practicing Christian and a Catholic, he respects all other religions without thrusting his religious views on others, just as Mr. Srinivas Vadde who is a practicing Hindu, and does not let personal religious beliefs and prejudices interfere/hinder with financial aspects of making early large scale payments to Mr. Srinivas Vadde, unlike perhaps some other prejudiced and superstitious people/bankers.

Mr. Joseph Sanusi can also share his insights into how the innocent straight forward influence of Petitioner's husband, Srinivas Vadde, and herself has helped lift the image of the Nigerian government and financial system in world business segments, and as to how OPEC (Organization of Petroleum Exporting Countries) and Nigeria have benefitted through the Extraordinary influence, intelligence, and intellect of Petitioner's husband, Srinivas Vadde, in business transactions, by boosting their economies, which in turn has boosted many of the world economies, including the U.S., Indian, and European economies as well as the U.S, Indian, and European stock markets. Mr. Sanusi can also state as to how awarding capital/grants and business contracts (especially big international contracts) for large scale income to Srinivas Vadde (regardless of him being an Indian Citizen and/or an immigrant in the United States) preserved the world value system, capitalism, and led to income for OPEC and their government, as well as a successful world economy, since Petitioner's

husband is a deserving and capable individual who has honesty, integrity, as well as excellent advanced Marketing, Sales, Engineering, Technological, Analytical, Logical Reasoning, and Financial knowledge/skills. It is no surprise that Mr. Srinivas Vadde's influence had even helped the Oil & Gas industry realize Record Crude Oil Sales Prices of around $147/barrel and Average Retail Gasoline Prices in the range of $1.92-$3.32/Gallon in the U.S., and $5.45-$8.7/Gallon (€4.39-€5.94/Gallon) in the European Union during the 2004 through 2010 period (data obtained from U.S. Bureau of Labor Statistics Consumer Price Index (CPI)). Mr. Joseph Sanusi can also shed some valuable insight into how the geopolitical landscape and foreign policy decisions of various governments in the world influence the price of crude oil, gas, and related petrochemical and other products, based on supply and demand in the international commodities, stocks, futures, and options markets, and Dollar and Euro traded Oil Sales. Further, Mr. Joseph Sanusi can describe how the financial reserves of the various world economies are boosted when their GDP goes up due to increased sales/revenue/surpluses, and savings/investments/profits, etc., in numerous sectors of their economies.

Defense Witness 2
Mr. Srinivas Vadde
2630 Garland Way
Duluth, GA 30096
USA
Phone: (404) 453-3531

Scope of Testimony or Deposition: Mr. Srinivas Vadde can testify or state that he received the check in this case in mail as capital for incidental expenses from Mr. Joseph Sanusi through his colleague, Mr. Peter Omar, in good faith (UCC § 1-201 & UCC § 3-103(a)(4)), and endorsed it and passed it on to Petitioner. Mr. Vadde can state how some prejudiced people had earlier arbitrarily and unjustly shut down his local U.S. bank accounts during the politically polarized/volatile period of 2000-2005 when he had helped President George W. Bush and Republicans win elections in the United States with his influence. As a result, even though Mr. Joseph Sanusi had informed Mr. Vadde in 2004 that he could cash the Ulster Bank check in one of his accounts in Europe or India, his busy schedule did not permit him to waste much time on international travel for the simple purpose of cashing a check. So, he chose to deposit the check in his wife, Subbamma Vadde's local account with Bank of America, since BofA was considered a big bank that could clear international checks quickly. Mr. Vadde has already issued a statement that explains the origin and purpose of the check (known to the best of his personal knowledge), and has already declared its authenticity in his statement. This statement has already been entered into evidence and submitted to court under the best evidence rule along with Petitioner's MSJ, as

Exhibit AAA (R-383-472; R-754-873) (an updated reproduction of which has been given to Petitioner and is also illustrated in Appendix G of this Petition).

So, simply put, irrespective of any lower court's opinions or some other prejudiced people's opinions to the contrary, the facts already proved in nature and our world are as follows: By Mr. Joseph Sanusi's provision of funding/seed capital and money for incidental expenses to Petitioner's husband, Srinivas Vadde, while waiting for issuance of security clearances for him in 2004, and by utilizing Srinivas Vadde's Extraordinary Rational Influence, Confidence, Intelligence, Intellect, Marketing & Sales Skills, and Precedent setting Leadership Skills with Courage, and generating Billions of U.S. Dollars or more in income for OPEC, the Oil & Gas industry, and many other world Governments, including the Federal Government of Nigeria, and by them benefitting from revenue in some form or the other from the sale of Crude Oil and related Petrochemical and Refinery products, even in the meanwhile, in order to in turn pay large Multimillion U.S. Dollars and/or more in Contractual income and earnings to Srinivas Vadde from Governments and Central Banks outside the United States and India (or an equivalent sum of money in British Pounds, Euros, or Indian Rupees, that can be paid to Srinivas Vadde immediately early on without delay, irrespective of whether he is an Indian Citizen and/or an immigrant/resident in the United States, and/or is considered to be/or becomes a Citizen of the United States); the world has already benefitted sufficiently as of the date of this Petition, by preservation of the integrity of the

value system & financial systems (sales/profit margin/revenue/commission system involved in Trade & Commerce), by boosting world economies, including that of United States, European Union, Ireland, and India. It is of profound importance to note and understand that the Multimillions of U.S Dollars (around $200+ Million U.S. Dollars) and/or more (or an equivalent sum of money in British Pounds, Euros, or Indian Rupees backed by Gold Bullion/Precious Metals/Treasury Securities and/or other natural tangible assets of relatively real stable value, despite any temporary turbulent factors of war or other world geo-political volatilities) in earnings of Petitioner's husband, Srinivas Vadde, already made/earned in the world economy with his help, and owed to him as of the date of this Petition, can be immediately paid to Srinivas Vadde in his bank accounts in any friendly/amicable/favorable place and bank in the world, including particularly in India (his country of origin), without any notions of burdening any future generations with debt, and without inflation, since his own earnings are based on an earnings and value driven economic model, and not on a debt driven economic model. Further, one must remember that there are very rich young people like Srinivas Vadde and Multimillionaires and/or Billionaires, in general, from/in many parts of the world, especially from/in both India as well as the United States.

APPENDIX G

Exhibit AAA

AFFIDAVIT OF SUPPORT

By the power and authority of logic and reason in nature vested in me, this is to competently declare and confirm to the best of my personal knowledge and belief, that I, Srinivas Vadde, am competent authority to testify/state that I received an assuredly authentic 3rd party check dated 5/31/04, in June 2004 for €35,000 (Euros), at 206 Vinings Parkway SE, Smyrna, GA 30080, U.S.A., in good faith (United States Uniform Commercial Code guidelines, UCC § 1-201 and UCC § 3-103 (a)(4)), from Chief Joseph Sanusi, the then Governor of the Central Bank of Nigeria up until May 31, 2004 around the time the check was written (please see attached Exhibits A & USSCPR4 of the check and Official Press Release from Central Bank of Nigeria, http://www.cenbank.org/), for reimbursement of expenses and as capital for incidental expenses while doing business with him and his government.

Mr. Joseph Sanusi is a prominent and reputed banker educated in England, with over 20 years of banking experience by around 2004, who has overseen Millions and Billions of dollars in payments to world famous Oil and/or Gas Companies, as well as to contractors of the Federal Government of Nigeria, including but not limited to Exxon Mobil, Chevron Texaco, BP, and Shell, etc. Mr. Joseph Sanusi and the Federal Government of Nigeria, along with the Central Bank of Nigeria, through its corresponding banks, have extensive experience

consummating financial transactions in the United States, India, and abroad, including with several world governments. As a matter of fact, it is well known that Nigeria is a prominent supplier of Crude Oil to the United States and India. According to the Organization of Petroleum Exporting Companies (OPEC), of which Nigeria happens to be a key member, and the Energy Information Administration of U.S. Department of Energy, Nigerian Oil Production Capacity is around 2.7 million barrels per day and actual Production averages in the range of 1.8 to 2.4/2.5 million barrels per day, of which a large portion is exported to the United States, India, and other countries for consumption or refinement and further sales. So, Mr. Joseph Sanusi is a well reputed and knowledgeable/reliable individual who has been associated with U.S. and international trade & commerce and the operation of a Federal Reserve through foreign exchange transactions for quite some time.

Mr. Joseph Sanusi claims to have obtained the relevant check (displayed as Exhibit A) as a loan from one of the corresponding banks of the Federal Government of Nigeria & a Credit Union of Ireland. The check was drawn on Ulster Bank, O'Connell St., Dublin, Ireland. According to Mr. Joseph Sanusi, the government of Nigeria routinely uses such corresponding foreign banks, such as Ulster Bank of Ireland, to pay their foreign contractors since Nigeria does/did not have an advanced and well developed financial and checks system of its own that is/was recognized worldwide. However, checks drawn on Ulster Bank acting on behalf of Nigerian banks, Joseph Sanusi, and the Government of Nigeria are recognized in many parts of the world, including the

United States and banks in America (which are governed by United States law, apart from applicable international law, United Nations Conventions, and UCC § 3-413, or/and UCC § 4-401, or/and UCC § 4-402, or/and UCC § 4-301, or/and UCC § 4-302) according to Mr. Joseph Sanusi, and to the best of my knowledge. Since the European Union has its monetary system in Euros for Universal acceptance, and Ulster Bank of Ireland transacts in Euros (€), check Number 050642, sequence # 98-50-40, shown in Exhibit A, was paid to me in Euros (€).

Incidentally, the check displayed in Exhibit A was mailed to me by DHL Courier Services by Mr. Peter Omar, a colleague of Mr. Joseph Sanusi and was declared to me as being pre cleared of any wrong doing and insured with the government of Nigeria and its corresponding bank/insurance company. The DHL package containing the check in Exhibit A was mailed to me from Mr. Joseph Sanusi's residential address, namely, "15 Ilori Street, Ire Akari Estate, Isolo, Lagos, Nigeria." The shipping label for the package that delivered this check in Exhibit A is presented for illustration in Exhibit B. Exhibit C is the printout of the tracking results for the transit activity of the DHL package from its origin in Lagos, Nigeria, up to its delivery to me in Smyrna, Georgia, U.S.A. Please note that the DHL tracking number "352 9257 152" is the same on both Exhibit B and Exhibit C, and common to both. Further, both Exhibits B & C clearly indicate that the package was mailed from Lagos, Nigeria (by Mr. Peter Omar, Mr. Sanusi's colleague in the Nigerian Government). It is also noted that the address on the DHL shipping label illustrated in Exhibit B is "15 Ilori Street, Ire Akari Estate, Isolo, Lagos, Nigeria," which as

explained earlier is Mr. Joseph Sanusi's residential address of record on an official basis with the government of Nigeria.

As an experienced banker and a world renowned man who has transacted business and financial transactions with the United States Government, American Oil & Gas businesses, banks, Contractors, and many other individuals, Chief Joseph Sanusi assured me that the check displayed in Exhibit A, is genuine/authentic/valid and that it must be honored/cleared and paid by the depositary and drawer/drawee bank(s), no matter which account in the United States it is deposited in, as accorded by the provisions of UCC § 3-409, or/and UCC § 3-201, or/and UCC § 3-204, or/and UCC § 4-401. I did pass on the said check displayed in Exhibit A, lawfully to Ms. Subbamma Vadde, for deposit into her Bank of America account # 327527899, purely for the sake of convenience, as Bank of America was a big bank in the past that was supposed to be faster and more efficient than other local banks in clearing international checks. As is the norm with clearance of checks, the drawee bank, Ulster Bank of Ireland, and the Credit Union in Ireland whose account the check is drawn on, are obligated to honor and pay for the amount of the check (according to UCC § 4-401, or/and UCC § 4-301, or/and UCC § 4-302), and are liable along with Bank of America for any wrongful/erroneous dishonor caused by themselves, in this case, as per UCC § 3-409, or/and UCC § 4-401, or/and UCC § 4-402, or/and UCC § 4-302. Consequently, Ms. Subbamma Vadde, who received the check from the 3rd party, Mr. Joseph Sanusi and his associate Mr. Peter Omar, through me, in good faith (UCC § 1-201, and UCC § 3-103 (a) (4)), must

not be held liable to pay for the check, nor should I (according to UCC § 3-409, or/and UCC § 4-401, or/and UCC § 4-402, or/and UCC § 4-302, or/and O.C.G.A § 11-4-301, or/and O.C.G.A § 11-4-302).

The contact address and details provided by Mr. Joseph Sanusi when he issued me the said check from the bank in Ireland, in 2004, which was also the official address of Chief Joseph Sanusi in 2004, is as follows: Chief Joseph O. Sanusi, Governor of Central Bank of Nigeria, P.M.B. 0187, 15 Zaria Street, Garki, Abuja, Nigeria. Mr. Joseph Sanusi's Nigerian Passport Number provided by him was A2126375, and his Nigerian driver's license number issued by the Nigerian State of Lagos, as provided by Mr. Sanusi was LSD1040F. Mr. Joseph Sanusi's residential address as provided by him to me is: 15 Ilori Street, Ire Akari Estate, Isolo, Lagos, Nigeria. Any further inquiries on this issue are to be directed to Chief Joseph O. Sanusi or the current Governor of the Central Bank of Nigeria, Mr. Lamido Sanusi, who took over Contractor Payment responsibilities from Professor/Mr. Charles Soludo, who in turn inherited payment responsibilities from Chief Joseph Sanusi, and/or the Government of Nigeria directly at the above given addresses.

This statement/declaration is hereby declared to be true and correct to the best of my personal knowledge and it serves to clearly, authoritatively, lawfully, and justly indemnify, discharge, free & exempt Ms. Subbamma Vadde from any and/or all liability (whether past, present, and/or future) in the aforementioned check issues, completely.

This 15th day of July, 2010.

s/ Srinivas V. Vadde

Exhibit USSCPR4: Official Press Release Confirming Mr. Joseph Sanusi as Governor of Central Bank of Nigeria Transferring Responsibilities to New Governor Charles Soludo around May 2004/June 2004 : Page 1

PRESS RELEASE

SOLUDO TAKES OVER FROM SANUSI AS CBN GOVERNOR

The out-going Governor of the Central Bank of Nigeria (CBN), Chief (Dr.) Joseph Oladele Sanusi, CON, today formally handed-over the reign of the apex bank to the new Governor, Professor Charles Soludo.

The event which took place in the office of the Governor at the Head Office of the CBN, Abuja was witnessed by Deputy Governors and some Departmental Directors of the Bank.

In his handover speech, Chief Sanusi reviewed the performance of his tenure. He told the in-coming Governor, that CBN is a good place to work. Chief Sanusi told Professor Soludo that CBN has a crop of quality staff that will assist him to realize his dreams for CBN.

Chief Sanusi further stated that inspite of the good track record of the CBN, the in-coming Governor would be confronted with numerous challenges. Some of the expected challenges

Exhibit USSCPR4: Official Press Release Confirming Mr. Joseph Sanusi as Governor of Central Bank of Nigeria Transferring Responsibilities to New Governor Charles Soludo around May 2004/June 2004 : Page 2

include, the issues of fiscal dominance, financial sector soundness and stability and the ability to comprehensively address the problems of unhealthy and distress banks in the system, the interest and foreign exchange rates stability and the bank's continuous developmental role.

Chief Sanusi welcomed the new Governor to the CBN and wished him well.

Professor Soludo in his short address thanked the out-going Governor for the comprehensive hand-over notes. The new Governor said he would do everything within his power to make Central Bank of Nigeria greater, than he met it. He said he would count on the unalloyed and committed support of the staff of CBN to succeed as the Governor of the Bank. He pleaded with the out-going Governor to make himself available at all times for likely advice and counsel.

Professor Soludo is expected to formally resume office on Monday, May 31, 2004.

Tony Ede,
Deputy Director,
Corporate Affairs.

Exhibit A: Copy of the Original €35,000 (Euros) Ulster Bank check, received by Srinivas Vadde as capital for incidental expenses, from Mr. Joseph Sanusi, through his colleague, Mr. Peter Omar, when Mr. Sanusi was the Governor of Central Bank of Nigeria, in May/June of 2004.

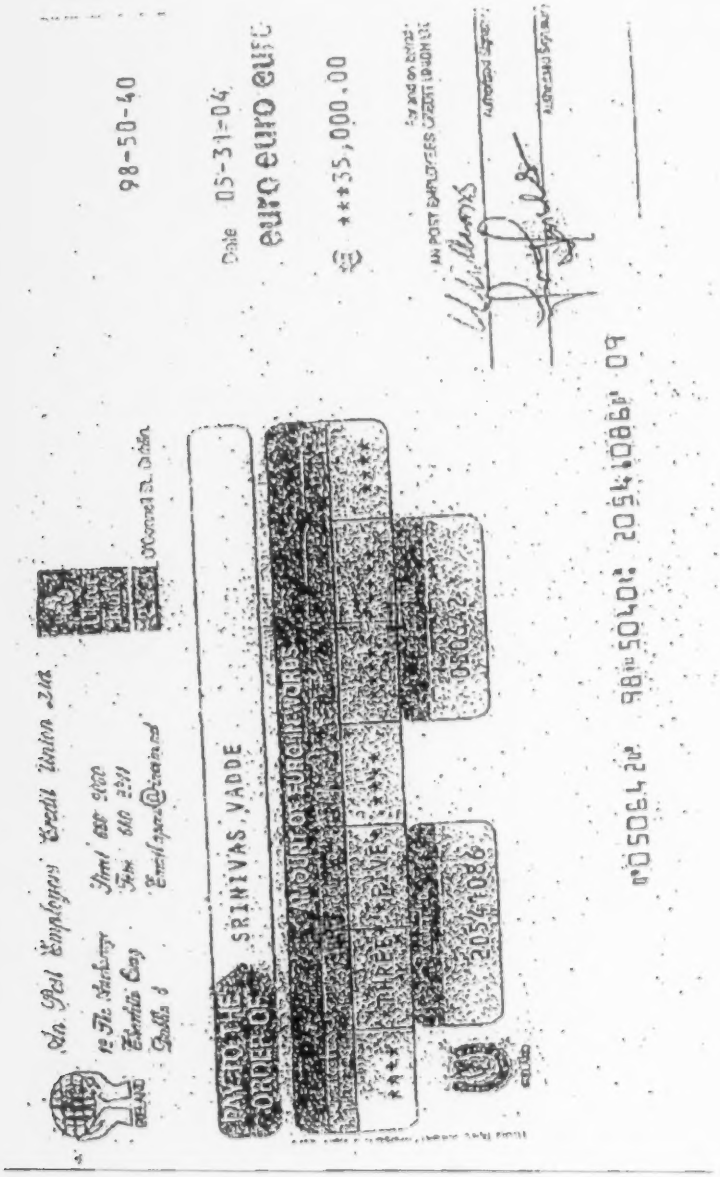
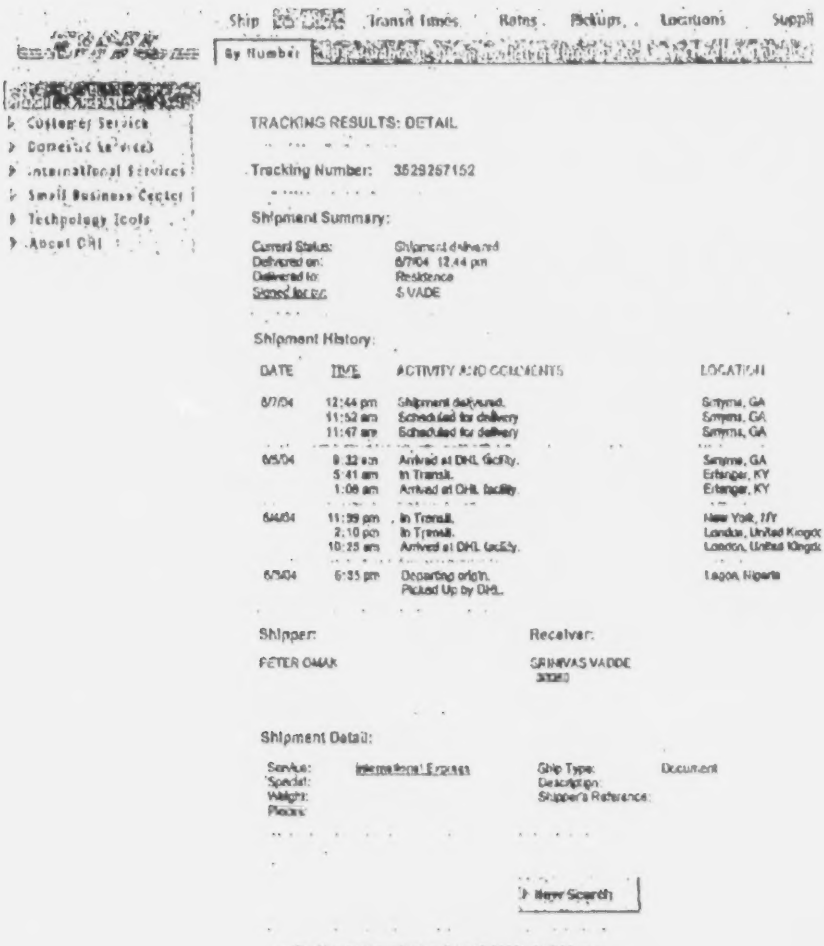


Exhibit B: The DHL package shipping label that delivered the Ulster Bank Check from Ireland with tracking number, address of origination (which is Mr. Joseph Sanusi's address in Lagos, Nigeria), and destination address (Mr. Srinivas Vadde's address in Smyrna, Georgia, U.S.A, in 2004) displayed. Mr. Peter Omar is Mr. Joseph Sanusi's colleague who mailed the check on behalf of Mr. Sanusi/Government of Nigeria.

Exhibit C: DHL Tracking information for the package that delivered the Ulster Bank check.



Ship Transit times Rates Pickups Locations Suppli

By Number

- Customer Service
- Domestic Services
- International Services
- Small Business Center
- Technology Tools
- About DHL

TRACKING RESULTS: DETAIL

Tracking Number: 3529267152

Shipment Summary:

Current Status:	Shipment delivered
Delivered on:	8/7/04 12:44 pm
Delivered to:	Residence
Signed for by:	S.VADE

Shipment History:

DATE	TIME	ACTIVITY AND COMMENTS	LOCATION
8/7/04	12:44 pm	Shipment delivered.	Smyrna, GA
	11:52 am	Scheduled for delivery	Smyrna, GA
	11:47 am	Scheduled for delivery	Smyrna, GA
8/6/04	9:32 am	Arrived at DHL facility.	Smyrna, GA
	5:41 am	In Transit.	Erlanger, KY
	1:08 am	Arrived at DHL facility	Erlanger, KY
8/4/04	11:39 pm	In Transit.	New York, NY
	2:10 pm	In Transit.	London, United Kingdo
	10:25 am	Arrived at DHL facility.	London, United Kingdo
8/3/04	6:35 pm	Departing origin. Picked Up by DHL.	Lagos, Nigeria

Shipper:

PETER OMAR

Receiver:

SRINIVAS VADDE

Shipment Detail:

Service:	International Express	Ship Type:	Document
Special:		Description:	
Weight:		Shipper's Reference:	
Pieces:			

New Search

- Tracking data provided by DHL: 8/13/2004, 8:30:02 am pt
- For assistance, please contact us.
- You are authorized to use DHL tracking systems solely to track shipments tendered by or for you to [illegible] use of DHL tracking systems and information is strictly prohibited.

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Exhibit AA: Bank of America Statement for Petitioner, Subbamma Vadde's Account from June 2004 showing that the €35,000 (Euros) Ulster Bank check was Honored, Credited, and Paid on 6/14/04, as per O.C.G.A. § 24-4-23.1.

SUBBAMMA V VADDE

Page 2 of 5
Statement Period
06-11-04 through 06-12-04
Number of checks enclosed: 3
B 06 0 C P 00

Account Number: 0011 7437 8025

Bank of America is a proud sponsor of the U.S. Olympic Team and its pursuit of higher standards, and will continue to support Team USA through the 2008 Games in Beijing. This summer in Athens, Bank of America will make it possible for athletes and their families to experience the Olympics first-hand through our Bank of America Hometown Hopefuls program.

Bank of America offers you free Online Banking service with free, unlimited Bill Pay. Already enrolled? Sign in to see what's new. Not yet enrolled? It's easy. Sign up today at www.bankofamerica.com.

You may have noticed that your Bank of America statement looks different. Your account details will now print on the front and back of your statement pages. This is just one of the many ways Bank of America is committed to conserving resources. We hope you like the new statement format and if you have any questions, please call Customer Service.

Interest Checking Additions and Subtractions

Date Posted	Amount($)	Resulting Balance($)	Transaction
06-14	40,715.00+	39,766.02	Deposit
06-16	3,000.00-	35,766.02	Check 126
06-16	700.00-	35,066.02	BkofAmerica ATM 06/16 #000007781 Withdrwl Smyrna Smyrna GA
06-18	4.90-	35,061.12	Paypal ;Des=inst Xfer ;ID=43G2228Ceuco| Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,057.27	Paypal ;Des=inst Xfer ;ID=43G2228Cath2A Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,053.42	Paypal ;Des=inst Xfer ;ID=43G2228Cegebs Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,049.57	Paypal ;Des=inst Xfer ;ID=43G2228Cerdqs Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,045.72	Paypal ;Des=inst Xfer ;ID=43G2228Carwqs Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,041.87	Paypal ;Des=inst Xfer ;ID=43G2228Casgy4 Eff Date: 040618;Indn:Srinivas Vaddo
06-18	3.85-	35,038.02	Paypal ;Des=inst Xfer ;ID=43G2228Cesz62 Eff Date: 040618;Indn:Srinivas Vaddo
06-18	2.25-	35,035.77	Paypal ;Des=inst Xfer ;ID=43G2228Cepd9Q Eff Date: 040618;Indn:Srinivas Vaddo
06-22	10,000.00+	45,035.77	Online Banking transfer from Sav 8763 Confirmation# 7912268818
06-22	1,000.00+	46,035.77	Online Banking transfer from Sav 8763 Confirmation# 7917470909
06-22	10,000.00-	36,035.77	Check 128
06-22	35,000.00-	1,035.77	Online Banking transfer to Sav 8763 Confirmation# 7902712618
06-25	83.99-	951.78	CheckCard 0624 Best Buy 00005025 Smyrna GA 24399004176295502889739
06-25	6.34-	945.44	CheckCard 0623 Sri Krsn Ans Vilas Norcross GA 24721854177017603272326
06-28	252.00-	693.44	Check 127
06-28	79.84-	613.60	CheckCard 0624 Firestone 00126961 Marietta GA 24399004177512010126961
06-28	21.00-	592.60	CheckCard 0624 Micro Center Marietta Marietta GA 24445004177854564106054
07-06	16.78-	575.82	CheckCard 0702 Chan'S Super Bufic Austell GA 24224434185345446390310

Ulster Bank check → Honored, Credited, and Paid on 6/14/04, as per O.C.G.A. § 24-4-23.1

Exhibit BBB: Copy of the envelope that delivered Bank of America's Statement for Petitioner's Checking Account# 3275278929, for the period of 6/11/04 through 7/12/04. Please note the postmark of July 15, 2004 (7/15/04) on the top right corner of the envelope cover.

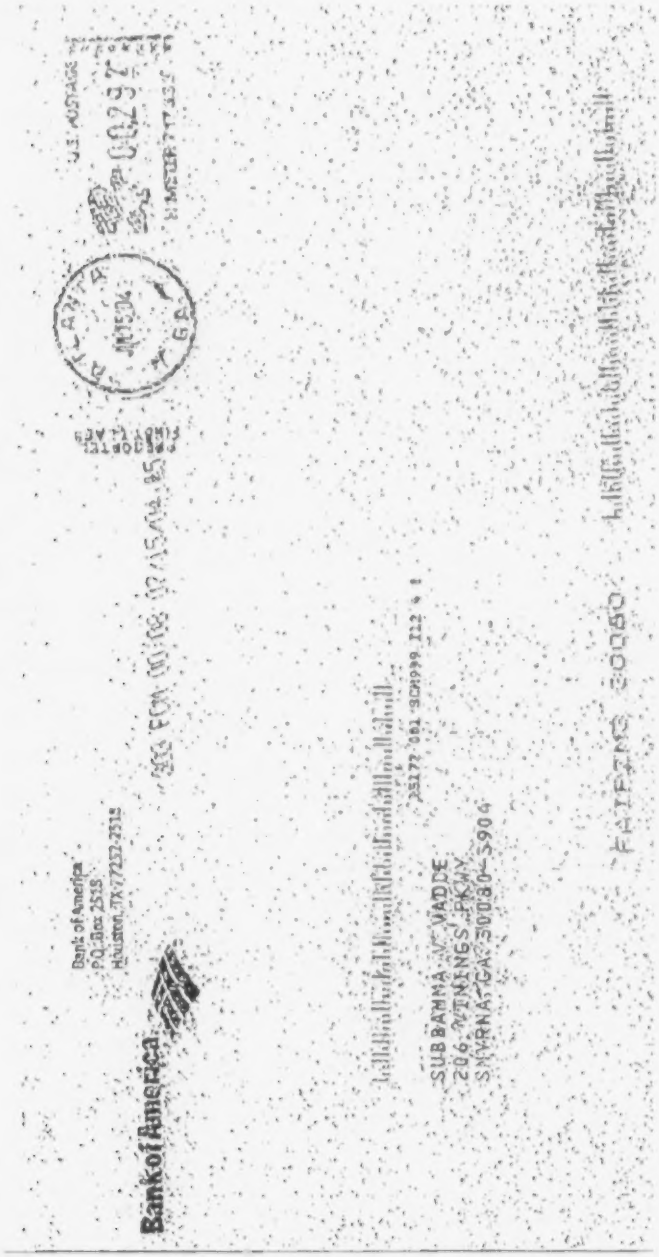


Exhibit ZZ(i): Petitioner's deposit slip showing the deposit of check# 98-50-40 on June 12, 2004, for €35,000 (Euros) or $40,705.00, into Petitioner's Checking Account# 3275278929 with BofA.

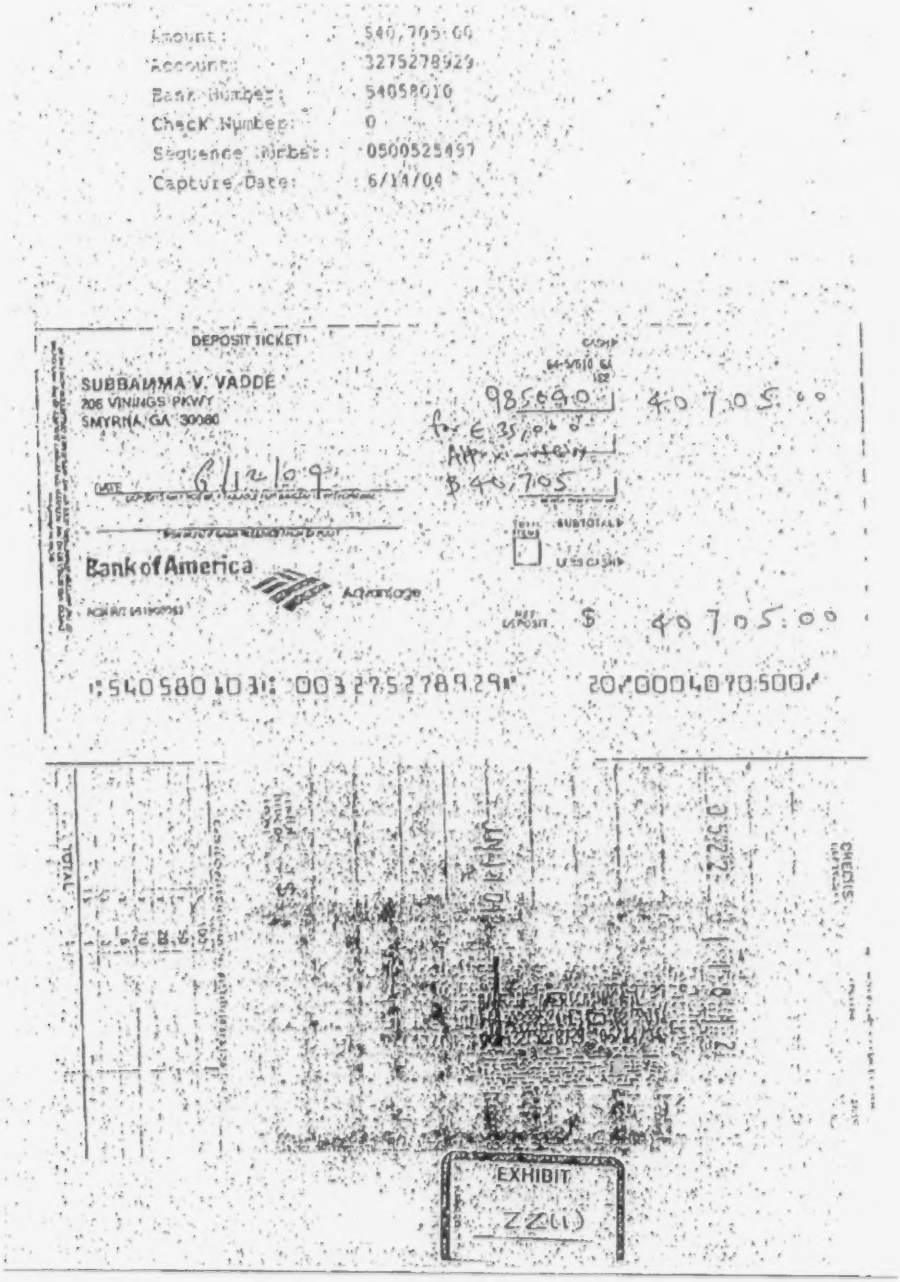
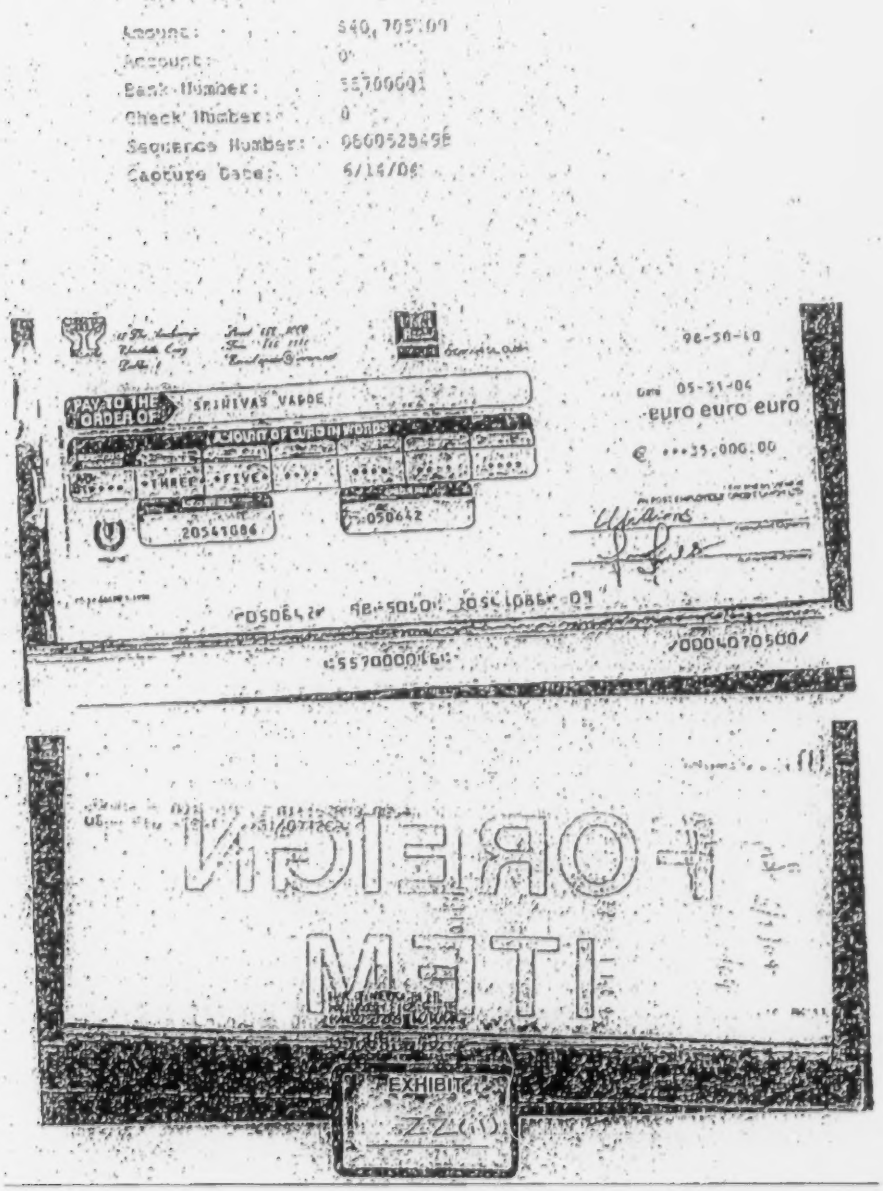


Exhibit ZZ(ii): Copy of the original front and back portions of the Ulster Bank check deposited into Petitioner's BofA Checking Account# 3275278929, on June 12, 2004, for €35,000 (Euros) or $40,705.00, with all necessary legal endorsements for immediate clearance and payment to Petitioner.



APPENDIX H

Exhibit USSCPR5: This Appendix contains complementing additional details, for an enhanced and comprehensive understanding of the crucial issues presented in the numerous sections of the *Petition for Certiorari* in this case, justifying granting of Certiorari and summary approval of Petitioner's requests therein. The supporting facts, laws, case law, logic, and other factors/evidence presented in this Appendix also specifically support dismissal of BofA's case against Petitioner and prove that granting of immediate financial relief and compensation of around U.S. $344,876.54+ to U.S. $1 Million and/or more to Petitioner, Subbamma Vadde, is justified.

IA. ADDITIONAL DETAILS OF FACTS/STANDS OF PETITIONER IN THIS CASE

1) The Petitioner has amply proved that favorable constructions of the laws of the Uniform Commercial Code exist that already prove that she is discharged and proved innocent, faultless, and without liability, in this case. Why then did BofA, the Georgia Supreme Court and Court of Appeals, and State Court of Cobb County fail to address any of the issues raised by Ms. Vadde in the past and why did they violate her Constitutional and Statutory, as well as Due Process rights incessantly in this case from day 1 of this case's incidents in 2004?
2) It is unethical, unjust, and fraudulent for banks to clear proceeds from checks deposited and attempt to portray them as loan proceeds in order

to run their banking business and manipulate/inflate their bank balance sheets with undue amounts, to exercise unjust and invalid/non-existent authority over depositors, as was done by bank in this case in 2004 after the Petitioner had spent the proceeds. Petitioner therefore contends that banks, the State Court of Cobb County, the Georgia Court of Appeals and the Georgia Supreme Court erred in their actions and judgments in this case in past on 2/4/09, 11/20/09, 12/09/09, 4/19/10, and 5/17/10.

3) At issue is the need to condemn lower courts' unjust tactics of ignoring evidence favorable to an Appellant/depositor/consumer whenever presented! Courts cannot justifiably have different standards for BofA's evidence and Petitioner's. So, Petitioner's arguments/claims cannot be merely termed self-serving, and are facts within the scope of this case. How could the judges & justices possibly ignore this fact?
4) At issue is the question of why the banks should not be held to the same standards of evidence and law for earning their income from capital, as depositors, investors, and government, or the rest of us in society and the world do? It is commonsense to understand that just as banks can/tend to get paid commissions on capital, deposits and investments into their accounts immediately upon deposit, so can/do depositors/endorsers and investors get paid and make immediate commissions upon their capital, deposits and investments into their accounts, without the need to dwell on any issues of providing goods/services.
5) At issue is why depositors have to even use banks as intermediaries at all, for any financial

transactions in the country and across the globe, if the banks do not take responsibility for payment upon acceptance of the deposit, nor have the capacity to assume the risk for clearance of a deposit before acceptance, without the government's intervention or involvement?

6) How could the past judges & justices find reasonableness in a U.S. banking regulatory system that has not been seriously/reasonably revamped since the great depression of the 1930s, especially when it is nonsensical and unrealistic to apply the ancient/antiquated banking model(s) to current day international transactions?

7) Issues in this case are complex enough to be dependent on acceptable practices of foreign banks, issues and guidelines for international trade and commerce, capital markets, economics, foreign exchange fluctuations and related markets for the Federal Reserves of various Countries, and foreign law/international law, including United Nations Conventions and their exceptions governing international check transactions. Since the issues of clearance of the 3rd party check in this case hinge on the principles of microeconomic and macroeconomic fundamentals of banks, nations, and governments in our current day interdependent economies of the world in national and international commerce, as had been illustrated by Petitioner in the record of this case (R-1-924), this case is connected with issues of national and international economic importance. This makes it imperative that this Petition for Writ of Certiorari and its requests be granted immediately.

8) At issue is the need to put an end to arbitrary and whimsical discrimination and blockades of international checks from international financial institutions other than those of the United States, whether they are from Nigeria, Africa, or the European Union, for better and smoother functioning of international trade and commerce.
9) At issue is the need to avoid double standards, to guarantee Petitioner and other depositors like her (by virtue of precedence set by this case), the same legal rights and protections from law afforded to banks such as BofA in this case. Courts cannot apply one standard when it comes to BofA, affording them use of self serving statements but ignore Petitioner's statements, even if Petitioner's statements are facts supported by documentation and proof, as affidavits from defense witnesses, and even when there is lack of any tangible adverse evidence from BofA that is not based on speculation or a conclusory allegation.
10) At issue is the need to prevent use of affidavits of hearsay such as those used by BofA in bank check cases that violate Petitioner's Constitutional rights. With all due respect to the past judges and justices, Petitioner points out that they had flagrantly erred in denying her judgments in her favor since they overlooked basic/fundamental facts and rules of evidence proving her points and claims.
11) Have the judges & justices in this case or BofA pointed to, or can they point to the name of at least one responsible individual from Ulster Bank of Ireland who could testify, be confronted, or be contacted by the Honorable Court, Petitioner, or any neutral 3rd party, to reasonably verify BofA's

claim of dishonor of Petitioner's check with proof of reason for dishonor? No, they have not and cannot, because such a claim of dishonor from BofA, errantly supported by the State Court and the Court of Appeals, is completely hypothetical and bogus. At issue is the need to hold banks such as BofA accountable and responsible for their actions of wrongful dishonor on whims and hearsay without tangible proof of reason.

12) At issue is the need for prevention of unconscionable and unilateral modification of terms of a deposit agreement by a bank (such as BofA) after a depositor signs up for an account, without the depositor's prior consent and knowledge, calling for unjust waiver of protest and notice of dishonor; to prevent dictatorial and whimsical dishonoring of international checks deposited.

13) Petitioner contends that it is atrocious for humanity and shameful for the Justice System in Georgia, that she was not granted dismissal of BofA's case or granted her requests in her counterclaim by 2/4/09, and had to prepare this Writ of Certiorari to the U.S. Supreme Court to seek justice.

14) At issue is the Constitutional requirement to prevent arbitrary hearsay and conclusory allegations by BofA from being supported by lower courts or their judges based on their whims and subjectivity, without objectivity, which mandates reversal of State Court of Cobb County's judgment on 2/4/09 and reversal of judgments/decisions in Court of Appeals interim Opinion on 11/20/09 and denial of Motion for Reconsideration on 12/09/09. It was error for the past Georgia justices to have overlooked these

issues and erroneously denied Certiorari & MFR to Petitioner on 4/19/10 and 5/17/10 respectively. This makes it imperative that this Writ of Certiorari be granted by the U.S. Supreme Court.

IIA. ADDITIONAL REASONS FOR GRANTING THIS PETITION

Petitioner contends and points out the fact that Bank of America had not addressed any important questions or issues raised by Petitioner, Subbamma Vadde, in the past. Ms. Vadde's questions have not been addressed by the past judges in this case or even the justices of the Supreme Court of Georgia. Isn't it possible that they themselves do not know the answers, and lack the initiative of leaders to determine the answers? Sure, it is possible; since they are not Gods or omniscient themselves, and perhaps do not even like to take responsibility for complex decisions, or do not even have the authority to make such decisions. Therefore, it follows that the contentions/allegations and presumptions of BofA and the Georgia Court of Appeals in the past against the innocent Petitioner are speculative and meritless without any basis of certainty. Petitioner contends that the justices cannot uphold adverse decisions against Petitioner in the absence of answers to the questions and issues she has raised. Petitioner reasserts that the Georgia Supreme Court and lower courts, in error, relied on facts not supported in the record, ignored facts supported in the record, ignored proper application of facts to controlling precedents under Georgia law, U.S. laws and United States Constitution, and international law and overlooked issues she raised earlier in her Writ of Certiorari dated 12/23/09,

especially Petitioner's Constitutional First Amendment Right to protest and/or dissent with others opinions, without having to face legal penalties simply because she holds opinions that differ from those of some other people. Therefore, Petitioner invokes and reiterates all the issues she had raised earlier in her petition for a Writ of Certiorari to the Supreme Court of Georgia, by reference, here.

1) According to Rule 40 of the Supreme Court of Georgia, pertaining to STANDARD FOR GRANTING, "A review on certiorari is not a right...A petition for the writ will be granted only in cases of great concern, gravity, or importance to the public. Certiorari generally will not be granted to review the sufficiency of evidence." Well, there were more than enough errors of law pointed out, in addition to the point about insufficiency of evidence raised by Petitioner. Petitioner has also demonstrated that the issues she had raised are of sufficient importance, relevance and gravity to the public, as pointed out in Petitioner's writ of Certiorari and in the previous paragraphs. Hence, Petitioner's Writ of Certiorari should have been granted by the Georgia Supreme Court, and must be granted by this Honorable Court.
2) According to Rule 42 of the Supreme Court of Georgia, pertaining to RESPONSES, "Responses to petitions for certiorari, filed within 20 days of the filing of the petition, are encouraged. See Rule 18. Failure to file a response shall be deemed to be an acknowledgment by respondent that the requirements of the rules for the granting of the petition for certiorari have been met, provided, however, that such acknowledgment shall not be

binding on the Court." This condition for granting Certiorari had already been met for Petitioner. However, Petitioner also contends that not only had such acknowledgment by respondent that the requirements of the rules for the granting of the petition for certiorari been met, but such acknowledgment was binding on the court in this case due to the facts of law presented by Petitioner and the rules of evidence. Holding otherwise means that the Georgia Supreme Court Rules itself are made in a baseless manner in order to perpetuate lawlessness and whimsical dictates by supporting illogical and/or erroneous decisions by Bank of America, State Court of Cobb County, and Georgia Court of Appeals, without upholding either the United States Constitution or respect for logic, reason, or the intellect of human beings, and without any respect for the rest of the people in the world outside the confines of the U.S. legal system; who have also been endowed with unalienable and equal rights by the same creator of life and the Universe that can be construed to have created the Judges and/or the Justices, as part of this world that we all share and live in.

3) The standard of review is whether there is any clear and convincing evidence that Petitioner's check can be dishonored after being honored and if so, on what grounds can this be done. There is no such evidence here. Trial court rests on an erroneous legal theory, irrelevant case law and contract law (inapplicable to 3rd party international checks), and on the presumption that checks can be dishonored at the subjective whims and dictates of people lawlessly, and without reason. With all due respect to the legal

system and judges in general; clearly, conjectures and whims of bankers or arbitrarily subjective whimsical decisions without objectivity, logic/reason, even if they are from some court officials or judges, cannot be used as criteria for check clearance in an international and global economy that ought to depend on sanity, logic, tangible evidence, and reason. Therefore, Petitioner's Writ based on her MSJ (R-754-873) and prior pleadings must be granted immediately.

4) BofA has not presented any tangible evidence that conclusively proves that Petitioner's check was ever presented to the maker bank (Ulster bank of Ireland) or that maker bank dishonored Petitioner's check with any proof of reason for dishonor, since the events didn't occur. It is unrealistic and unreasonable for any Petitioner to be expected to prove a negative or non-occurrence of events such as the absence of dishonor by Ulster Bank or absence of issuance of a timely notice of dishonor by BofA, even if/when the truth is that the Ulster Bank did not dishonor check and BofA did not give such a notice of dishonor, because no Petitioner can possibly present anything physically as proof of the material absence of an event. BofA on the other hand could and should have presented proof of mailing, to tangibly prove the presence of occurrence of the event of mailing notice of dishonor if such event had occurred at all, but did not since the event hadn't occurred.

5) BofA has no evidence or justified reason for its actions against Petitioner in this case. If at all there were any real issues of concern needed to be resolved regarding Petitioner's deposit, banks or legal authorities should have pursued legal action

against the root sources/originators/initiators of the 3rd party check transactions, namely the officials from Nigeria and/or the government of Nigeria, and not with the innocent Petitioner or her husband Mr. Srinivas Vadde.

6) Petitioner was discriminated against at the Motions Hearing (R-693-697; R-722-724) on 12/18/06 and prejudicially asked as to how long she had been in the U.S, an issue that ought not to concern the State Court of Cobb County for a mere 3rd party international check cashing transaction; notwithstanding the fact that Petitioner and her husband were already legal immigrants of the U.S. when the check was deposited in 2004, and the fact that her husband/family has honorable high level Political connections in the United States of America and India. These collective events and court actions in this case indicate gross errors and abuses to perpetuate whimsical dictates; not based in objectivity, logic/reason; but based on subjective bias and prejudice. As for Court of Appeals asking for authority that prohibits a trial court from scheduling a hearing on a MSJ even though one has not been requested, the Petitioner's arguments and objections in the present case are enough/sufficient precedent setting authority to challenge the erroneous actions of the trial court; as they Appeal to commonsense and the justices' conscience, as well as sensibilities of reasonableness in the current case, where a depositor must not be needed to expend further valuable resources on flying in overseas witnesses or transcriptions/hearings/trials in such a financial case when already seeking financial relief and additional compensation in the case.

7) Although it is unreasonable to expect Petitioner to incur any further costs in this case to fund witnesses to fly in from overseas to satisfy BofA's or the lower courts' curiosity in this matter (even though there is no adverse evidence in any tangible manner against Petitioner's check that was deposited), or to expect defense witnesses to fly in from overseas to testify for matters of a simple check clearance transaction, the court cannot erroneously ignore the fact that Joseph Sanusi's name was already given as a possible defense witness (R-196-201).
8) The current U.S. system of check clearance of 3rd party international checks is by itself an imperfect and standardless system that is grossly dysfunctional and empirical, resulting in wrongful claims of hypothetical dishonor of checks, as in this case. There is no uniform procedure, set of clearly defined rules or commonly adopted binding standards by all banks in the world, specifically for 3rd party checks, for the check clearing process. It is therefore improper and unjust to hold Petitioner, Subbamma Vadde, to undefined and often vague and ambiguous check clearing guidelines by banks when banks and bankers themselves do not/did not abide by such guidelines. Petitioner contends that arbitrary whims of bankers based on subjectivity and hearsay (devoid of logic and reason and tangible evidence) ought not to be used as standards or metrics for check clearance, or for dishonor of any deposited 3rd party checks. A situation attempted to be enforced by adopting a false doctrine, which was in itself merely an ad-hoc/temporary self satisfying dogma in lower Court's and BofA's vanity, must not be used to

support the false doctrine/dogma, as that would be the worst form of injustice through unjust circular reasoning. Thus, BofA's actions in this case were clearly senseless and baseless.

9) It has been evidently demonstrated throughout the history of human era, from Plato to Aristotle, to Socrates, to Galileo, in the fields of understanding of law, nature, or science, or economics, and business, that people's emotions and beliefs were sometimes so fiercely entangled in a wrongful manner (whether they are people or individuals from organizations and entities such as the banks related to this case), that it was possible for them to have stooped to falsifying results to attempt to preempt a fudged/fixed result to make a point (even if not a lasting one) through self serving circular reasoning (although erroneously and only temporarily). Clearly, similarly, attempts to use self-serving statements or remarks by BofA, State Court of Cobb County, and Georgia Court of Appeals as allegations, without proof, must be taken with a large grain of skepticism and objectivity, to avoid prejudice. Bank of America in this case must therefore be held accountable for its unjust acts against Petitioner, and made to compensate Petitioner, for having taken the burden of proving, with theories, logical reasoning, practical examples, and broadly encompassing scenarios, in Petitioner's past and present pleadings that support Petitioner's defenses, and claims against BofA in this case. It is noted that these facts as presented and proved by Petitioner ought to have been self evident, and should have and/or would have been so long ago by 2007 itself, if State Court of Cobb County and Bank of America had

been straightforward & cooperating right from the beginning, on answers and discovery. Therefore, BofA's acts to burden shift by hindering discovery are illegal and BofA must compensate Petitioner for hypothetical/simulated/wrongful dishonor of Petitioner's check and for its unsubstantiated/baseless allegations and unjust acts against Petitioner in this case.

10) Petitioner contends that it was the legal system of Georgia that was truly faulty and grounded in subjectivity at numerous points, making it an unfair system that has actually been a system of injustice rather than a justice system. Repeated errors committed by a legal system do not justify all the past errors of the legal system simply by shrugging off issues and attempting to brush them off under the rug. Denying or postponing immediate financial relief for Petitioner in this case does not solve problems in the Georgia Justice System or the U.S. Justice System, and does not solve the problems in our economic, or financial, and political systems (connected to the legislative or executive branches of Government that make the laws) for that matter. Errors repeated by various branches of the legal system and courts do not make the past wrongs right, simply because they have been unreasonably upheld in the past by erring officials and/or branches of government in a bullying manner. As an immigrant and/or an outsider with an unbiased perspective, Petitioner is very comfortable in stating that based on the bad things that had happened to her in the legal system in Georgia in the past, the legal system in Georgia has been very dysfunctional on numerous

occasions, since it was following a false doctrine propounded on errors perpetuated by the erroneous and subjectively interpretive system of Georgia, which is based on an imaginary world and is not based on objectivity or the real world.

11) Petitioner believes that although it is possible for one to succeed after prior failure(s), it is not necessary for one to have to fail or for one to be made to fail arbitrarily by fixing the outcome apriori in a rigged legal process, without logic or reason, in order for one such as Petitioner to succeed. If injustices such as those perpetuated on Petitioner in this case in the past can be perpetuated today despite her innocence and righteousness, and despite her husband's accomplished credentials, simply because she deposited her husband's check, tomorrow this could happen to anybody and any banking customer, rich or poor, whether they are immigrants from India or Europe or other places, or whether they are U.S Citizens born in the United States or elsewhere or those that have naturalized, since this is not a system of justice but a system of injustice where a few banks and courts arbitrarily and subjectively attempt to play control freaks to unjustly control the financial aspects of the lives of the rest of humanity without any objectivity, to blindly support an errant system (although that would still in turn lead to the downfall of the perpetrators of injustices on Petitioner and her husband Srinivas Vadde, due to the repercussions and effects of reactions to their unjust actions, in nature and natural law). This Petition must therefore be granted.

12)The Honorable court should also grant Certiorari and Petitioner's requests in this case to overcome the negative effects and repercussions of errant opinions and decisions from the lower courts and errant bankers, as well as rumor mongering people. This Honorable court must especially grant Petitioner's requests in her Certiorari to financially compensate her, which would in turn have a benign ripple effect and ***benefit all faultless and innocent people in this world such as Subbamma Vadde***, and others like her involved in international business/check transactions, such as bank customers/depositors, investors, businessmen and business women, immigrants, citizens, and the world at large, in general.

IIIA. CONSTITUTIONAL & STATUTORY VIOLATIONS BY BofA AND LOWER COURTS OF GEORGIA, OF PETITIONER, SUBBAMMA VADDE'S CONSTITUTIONAL & STATUTORY RIGHTS IN THIS CASE

Petitioner's Constitutional rights were violated on numerous occasions in this case in the trial court as well as the Court of Appeals of Georgia. Petitioner had been treated with bias and inequality in the past; both her procedural and substantiative due process rights had been violated; and the guarantees of both The State of Georgia Constitution and The United States Constitution had not been upheld by the Courts. It was also error for Court of Appeals to have upheld the trial court's errors and erroneous decisions despite constitutional violations.

1) This case was originated solely on the basis of random and arbitrary suspicion or hearsay rumors,

political bias/vendetta, emanating from intangible and inadmissible evidence, such as whims and opinions of bankers; which was unjustly presented as if the witnesses had firsthand knowledge on the matters of clearance of checks of Petitioner, which knowledge the witnesses did not have. BofA's allegations in this case were based solely on hearsay, whims/opinions, and illegally framed/fabricated evidence when better evidence, including opinion(s), favoring innocence and discharge of liability for Petitioner was readily available for presentation and consideration in the court.

2) BofA's unilateral modification of deposit agreement terms was unconscionable since it unjustly attempted to prevent protest/dissent, and thus violated the First Amendment of the U.S. Constitution.

3) The method of presentation of self-serving statements as bogus/fabricated evidence by BofA to the State Court and State Court's unjustified actions and decisions also violated the Petitioner's civil rights protected by the First, Fourth, Fifth, Seventh, and Fourteenth Amendments to the United States Constitution, also applicable through the Georgia Constitution.

IVA. DEFAULT OF DEFENDANT (BANK OF AMERICA)

O.C.G.A § 9-11-55 (a) states that, "...If in any case an answer has not been filed within the time required by this chapter, the case shall automatically become in default..."; therefore the defendant, BofA, which has not addressed issues raised by Petitioner, Subbamma Vadde, either in the trial court or in the Court of Appeals, nor answered any of her questions

in her interrogatories submitted to the trial court or to the Court of Appeals, or in her Certiorari earlier, is already in default in this case. Hence, this Petitioner's Writ of Certiorari and requests therein must be granted.

VA. BANKING LAWS, AND COMBINATIONS OF LAWS THAT FAVOR PETITIONER's ARGUMENTS AND CLAIMS IN THIS CASE

1) Even if banks in this case had claimed a hypothetical dishonor of checks, dishonored checks cannot be criminal or tortious when drawer does not know or intend check to be dishonored at time it is written. Duffy v. Landberg, 133 F3d 1120, (8th Cir. 1998). The check in this case is a 3rd party check written by someone else other than the Petitioner or her husband, and is also not written from Petitioner's or her husband's account. The check was also assured to be honorable before being passed to Petitioner, and Petitioner believed the check was honorable to the best of her personal knowledge at the time of deposit. Ergo, this is proof positive that Petitioner is 100% innocent and nonliable in this case, and that she must be granted adequate financial compensation from BofA for the nonsense she had endured in the past.

2) None of the banks in this case ever gave Petitioner a timely notice of dishonor within 24 to 48 hours of deposit, as mandated by law according to O.C.G.A § 11-4-301, and/or O.C.G.A § 11-4-302 (that preclude banks from charge back of an account after first honoring and/or clearing a check). That means that the banks in this case had no cause for action or accusations against Petitioner to begin with, and the whole case against her is actually fictitious based on

fabricated/bogus hearsay that is unreal or unreliable and intangible anyway.

3) Therefore, the banks in this case wrongfully dishonored Petitioner's check/deposit without giving her a timely notice of dishonor. BofA is hence liable in actuality to pay Petitioner money for her deposits and its past erroneous actions, as per O.C.G.A § 11-4-402, and/or O.C.G.A § 11-5-111, and other applicable laws, such as O.C.G.A § 51-12-5.1, and/or O.C.G.A § 51-12-5, and/or O.C.G.A § 51-12-6, and/or O.C.G.A § 51-1-1, and/or tort laws like or analogous to Equal Access to Justice Act (EAJA), and/or Federal Tort Claims Act (FTCA), etc.

4) It is also worth mentioning that all the funds obtained as partial withdrawals from Petitioner's deposit pertaining to the Ulster check in this case were spent in the American economy long time ago prior to the submission of this Petition, and constitute nothing more than expenses. It is also true that expenses incurred for a reimbursement as part of a capital do not constitute a benefit or income for taxable revenue, according to the laws of economics, commonsense and the principles of business accounting in general. Capital withheld by banks and/or income not yet paid out by banks or government to Petitioner or her husband does not constitute taxable revenue either.

5) To summarize, in the event of wrongful dishonor of Petitioner's check/deposit, it can be concluded that her check/deposit had not been dishonored by banks without the banks incurring liability, in compliance with the provision of at least one or more or/and all of the following laws of the United States Uniform Commercial Code and the Georgia Commercial Code, that govern banks' deposit accounts and banks' activity of any dishonor

of checks/deposits, imposing liabilities on banks for wrongful dishonor of checks/deposits: UCC § 4-401, or/and UCC § 4-402, or/and UCC § 4-301, or/and UCC § 4-302, or/and O.C.G.A § 11-4-301, or/and O.C.G.A § 11-4-302, or/and O.C.G.A § 11-4-402.

6) In the instance of failure of banks to give Petitioner a timely notice of dishonor by the requisite midnight deadline (regardless of whether the dishonor is proven to be rightful or wrongful), the laws and/or statutes that clearly state that Petitioner as a depositor or endorser is discharged from liability are: UCC § 4-302, or/and UCC § 3-503, or/and O.C.G.A § 11-3-502, or/and O.C.G.A § 11-4-301, or/and O.C.G.A § 11-4-302, or/and Georgia Commercial Code Ann. § 109A-3--502(1)(a), or/and Georgia Commercial Code Ann. § 109A-3--506, or/and Georgia Commercial Code Ann. § 109A-3--508.

7) In other words, we can safely conclude that the banks' failure to give Petitioner a timely notice of dishonor by the midnight deadline after deposit, constitutes a violation of at least one or more and/or all the provisions and requirements of at least one or more and/or all of the following laws of United States Uniform Commercial Code and the State of Georgia, which makes the banks in this case accountable for the amount of check/deposit made (thus resulting in liabilities for the banks involved in this case towards her) and also prevents the banks from recovering anything from her according to law: UCC § 3-503, or/and O.C.G.A § 11-3-503, or/and O.C.G.A § 11-3-502(b), or/and O.C.G.A § 11-3-502(d), or/and O.C.G.A § 11-4-301, or/and O.C.G.A § 11-4-302, or/and Georgia Code Ann. § 109A-3--502(1)(a), or/and § 109A-4--302, or/and § 109A-4—104(h), or/and § 109A-3—506, or/and Georgia Commercial Code Ann. §

109A-3—508(2) in this case. It is also emphasized that the statutory definition of O.C.G.A § 11-4-105(2) or/and UCC § 4-105(2) clearly states that a "depositary bank" is also the "payor bank" for the purpose of this case, where deposits were credited into Petitioner's account and not paid as cash over the counter, which means that BofA in this case has incurred liability as a "depositary bank" by virtue of its initial acceptance of Petitioner's check/deposit as per UCC § 3-413, and/or O.C.G.A § 11-3-413(a)(ii), and/or O.C.G.A § 11-5-111, etc.

VIA. PETITIONER HAS NO CONTRACTUAL OBLIGATION/LIABILITY

Petitioner has no contract with BofA to pay it anything. BofA's deposit agreement calling for waiver of notice of dishonor and protest and claiming right to debit depositors' accounts for any reason (no matter how baseless, arbitrary, whimsical, speculative, or self-serving the action is and when it takes place, as in this case), presented as Exhibit B of its MSJ, is unconscionable, unreasonable, and illegal as it was unilaterally and deceitfully prepared without Petitioner's consent (was not signed up for by Petitioner with the signature card with her opening of BofA's account in 2001), and is null and void. The agreement has been completely abrogated and has no force of law as explained in Section II of Petitioner's brief and MSJ (R-383-472; R-754-873; R-878-902). BofA's signature card states no contractual obligation for Petitioner with BofA, nor any Statutes and laws of Georgia or the U.S., and deceitfully omits mention of unilateral modification of its terms and conditions. BofA's deposit agreement in 2006 (when this case was initiated)

also did not call for Petitioner's waiver of protest or notice of dishonor. ***Bank cannot enforce agreement*** permitting it to act ***in violation of reasonable commercial standards***. Perini Corp. V. First Nat'l Bank, 553 F.2d 398 (5th Cir. 1977). Additional details on this issue are also given in, "Measure of damages for breach of duty by a bank in respect to collection of commercial paper, 67 ALR 1511." Further, BofA's deposit agreement of 2004 was terminated by Petitioner earlier (R-194-195; 239-257; 258-279; 383-472; 625-690; 754-873; 878-902) and also ceased to exist by closure of Petitioner's account in 2004 (as per Section 24, page 21 of the agreement), before this case was initiated in 2006. Generally speaking, ***rescission is in toto as it abrogates contract/agreement not partially but completely***. Lyle V. Scottish Am. Mfg. Co., 122 Ga. 458, 50 S.E. 402 (1905). So, ***as per O.C.G.A § 13-5-7,*** Appellee cannot claim any recovery from Petitioner due to rescission or release on BofA's agreement.

VIIA. GOODS/SERVICES NOT NEEDED FOR CASHING CAPITAL CHECK

This case is not about the enforcement of an arbitrary condition of supply of goods or services for every check deposited in every bank in the world. The said check here was obtained by the issuer as a loan from his issuing sources (and not as a loan from BofA) and issued as a capital for reimbursement of expenses. So, any Appellee's issues of goods and services are irrelevant/immaterial and outside the scope of this case. Further, according to Article 2(d) of the United Nations Convention on Contracts for the International Sale of Goods, the convention is

clearly stated not to apply to sales of stocks, shares, investment securities, negotiable instruments, or money and commissions. So, Petitioner, as depositor/endorser, is exempt from any arbitrary requirement of sale of goods or services for a check cashing transaction involving a negotiable instrument as detailed in Section III of her MSJ.

VIIIA. PETITIONER IS ENTITLED TO SUMMARY JUDGMENT

Appellee has no right to chargeback in the circumstances of this case. O.C.G.A § 11-4-214 becomes null and void here and is superseded by other UCC provisions of O.C.G.A § 11-4-301, and/or O.C.G.A § 11-4-302, etc., since chargeback of an honored check is barred by a subsequent wrongful dishonor without giving a timely notice of dishonor. Therefore, Petitioner's MSJ must be granted as elaborately explained in Sections IV & V of her MSJ (R-754-873; R-878-902).

To elaborate, the crucial issues relevant to the validity and approval of Petitioner's counterclaim against Bank of America are as follows: (1) Proof of wrongful dishonor of check (if at all there was any dishonor recognized to be legal) after initial honoring of Petitioner's check, which is legally and functionally equivalent to lack of proof in any tangible way that any of Appellee's dishonor was rightful or not wrongful, since our system of law is not an Orwellian System of law, or/and; (2) Proof of failure by Appellee to give timely notice of dishonor which is legally and functionally equivalent to lack of proof by BofA that it gave any timely notice of dishonor. The arguments and proof presented by Petitioner earlier and all the discovery disclosed and

completed in this case by 2/9/07 sufficiently illustrates that BofA had wrongly dishonored Petitioner's check and had no right to debit Petitioner's account since it had failed to give Petitioner a timely notice of dishonor by the deadline pursuant to O.C.G.A § 11-4-301. Therefore, Appellee/BofA is obligated and liable to pay Petitioner (who has already been discharged from liability, one way or the other, due to the numerous provisions and protections of the statutes mentioned in the earlier presented material and pleadings), pursuant to O.C.G.A § 11-4-301, and other laws/statutes. Thus, there is no genuine issue of fact that remains to be resolved by a reviewer of fact in this case, or by a jury, and this case does not need to go to any unnecessary trial for Petitioner to win, as it is already adequately clear that Petitioner must be granted financial relief, as requested in her counterclaim and her Motion for Summary Judgment (R-754-873; R-878-902).

IXA. APPELLEE WRONGLY DISHONORED CHECK

Appellee accepted, honored and paid an honorable/legitimate/authentic and valid check into Petitioner's deposit account for €35,000.00 on 6/14/04, by virtue of being a "depositary bank" which "is also a payor bank" when it accepts and pays a check or credits a check according to the statutory definition of O.C.G.A § 11-4-105 (2), because it determined it was legitimate and not counterfeit. Thereafter, Appellee never had any more right to chargeback Petitioner's account in this case as it is precluded by statutory laws of O.C.G.A § 11-4-301 and/or O.C.G.A § 11-4-302.

Although Petitioner understands that OCGA § 11-4-302 applies to a payor bank, ***Petitioner contends*** that ***BofA was a payor bank*** in this case ***by virtue of being a depositary bank*** in this case when it paid Petitioner, ***as established by OCGA § 11-4-105(2)***. What Court of Appeals had failed to note is that Petitioner's claim in this case is that BofA cannot abrogate its responsibilities of a Payor Bank and Statutory provisions of OCGA § 11-4-302 when it has already incurred liabilities according to responsibilities of a collecting bank as per OCGA § 11-4-214 provisions that have to concurrently abide by OCGA § 11-4-302 and the meaning of "midnight deadline" as well as "reasonableness". There was no dishonor by Ulster Bank and there is no proof to the contrary in the record of this case, and no self serving statement from BofA or any blind jumping onto the bandwagon of BofA's unsubstantiated claims by any judge, could possibly overcome BofA's insurmountable burden of proof for Court to find and present any tangible evidence from the record, to substantiate any statement of dishonor by Ulster Bank. Court of Appeals also erroneously ignored the definition of UCC § 4-105(2) that states that a collecting bank such as BofA which is also the depositary bank here is also a payor bank, for the purpose of first paying a customer who deposits a check, even though it might be a collecting bank for its transaction between itself and the final payor to it, which is Ulster Bank here. BofA cannot simply choose to charge back checks itself in a self serving manner using conclusory allegations and circular reasoning, or be only a collecting bank but not be a payor bank, since that would be a dysfunctional bank that takes in checks as deposits from customers but

pays out nothing in return to them. So, the alleged dishonor of said check was wrongful.

XA. APPELLEE FAILED TO GIVE TIMELY NOTICE OF DISHONOR

As provided by UCC § 4-302 and O.C.G.A § 11-4-302, payor/depository banks like BofA are required to settle or return checks quickly. The bank whether or not it is the depositary bank, must settle for any demand item/check by midnight of the banking day of receipt of the check, which in this case happens to be the midnight of June 12th, 2004. So, since BofA did not give a timely notice of dishonor, it is responsible for paying for the check deposited. Clements V. Central Bank, 155 Ga. App. 27, 270 S.E.2d 194 (1980) also proves applicability of O.C.G.A § 11-4-202 (a) and O.C.G.A § 11-4-202 (b) in favor of Petitioner's arguments for BofA's liability. The citations of the commercial code that Petitioner relies upon, to assert her defense of "failure of Appellee to provide a timely notice of dishonor," are sections of statutes which establish the responsibilities of a "payor bank," which is not only a bank upon which a check is drawn on, but is also a "depositary bank," by virtue of O.C.G.A § 11-4-105 (2). The position of a payor bank is a relativistic one depending on the phase of the banking transaction (whether it is the payment phase or the collection phase), and does not exclude a depositary bank. The events in the check clearance process in this case that justify Petitioner's stand and claims as per applicable O.C.G.A § 11-4-105 definitions, especially O.C.G.A § 11-4-105 (2), is depicted in Figures 1 and 2. Also, according to O.C.G.A § 11-4-215 (a)(2) & (3), Petitioner's payment received on 6/14/04 for her

check deposited on 6/12/04 is to be construed as final payment while dealing with the banking phase of transaction between the Petitioner and depositary bank/Bank of America (Branch 1 shown in Figure 1 of the following page), because the depositary bank here is also the drawee bank between 6/12/04 and 6/14/04, when it endorsed Petitioner's check and accepted it to pay it by 6/14/04. Thereafter, BofA, as a drawer lost all right to revoke settlement given to Petitioner. This logic is also supported by Georgia R.R. Bank & Trust Co. V. First Nat' Bank & Trust, Co., 139 Ga. App. 683, 229 S.E. 2d 482 (1976), aff'd, 239 Ga. 693, 235 S.E. 2d1 (1977) (decided prior to 1996 amendment).

Anyway, BofA's FDIC/liability insurance companies can also fund BofA for payments to Petitioner in this case, since BofA made mistakes which occurred in Phase II & Phase III of Figure 2, where insurance coverage is applicable (for $250,000 or more) to resolve the situation for Appellee. Anyhow, BofA is a large enough bank that has received sufficient government TARP funds (from Troubled Asset Relief Program), to be able to afford granting & paying financial relief to Petitioner immediately, to compensate her for its mistakes. Further details are given in Section IV.B of Petitioner's MSJ (R-754-873; R-878-902).

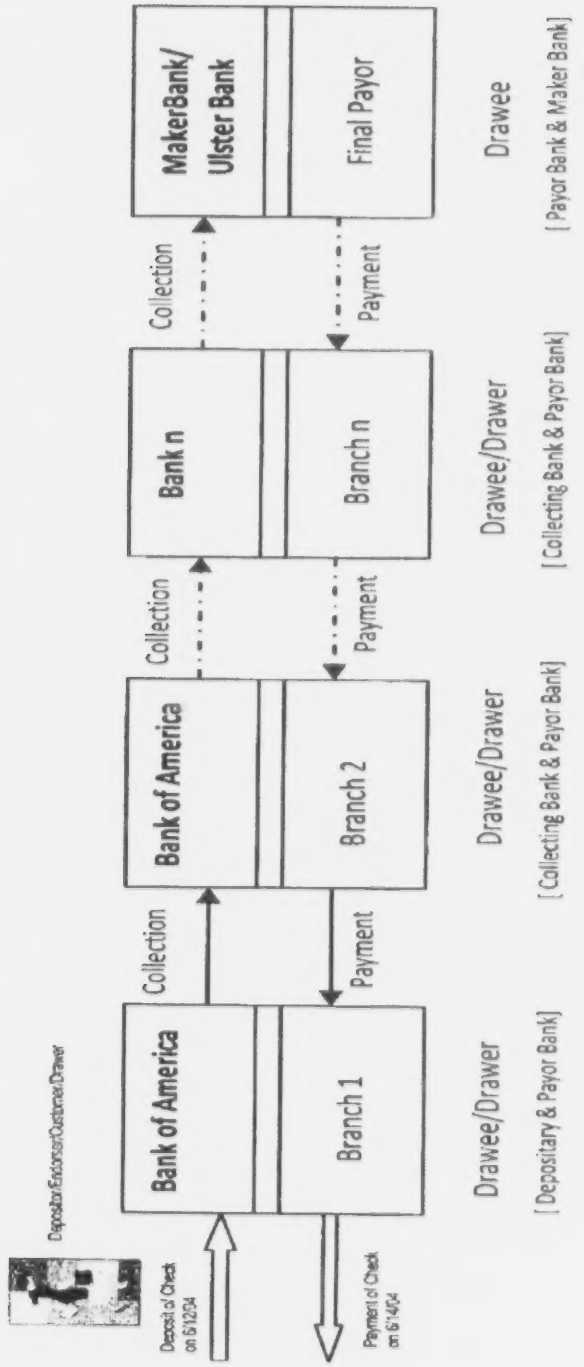


Figure 1 – Bank Payment Process for Negotiable Instrument/Check in This Case

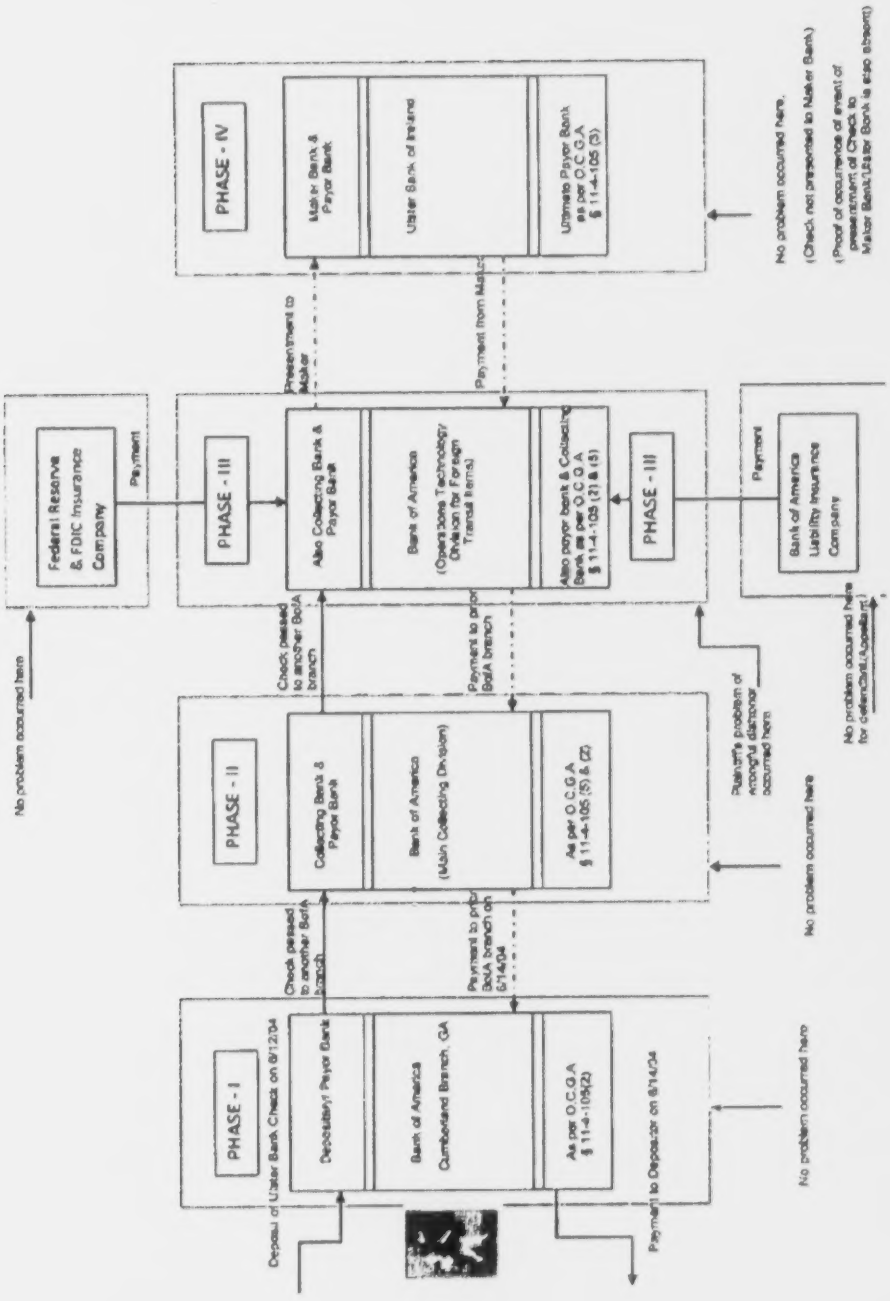


Figure 2 – Process of Payment of Depositor's Check/Funds from Ulster Bank/Bank of America/Federal Reserve/FDIC/Bank of America's Liability Insurance Company

XIA. APPELLEE HAS NO RIGHT OF CHARGEBACK IN THIS CASE

Clearly, Appellee's chargeback and subsequent wrongful dishonor of the check it honored earlier is illegal here. Its liability to Petitioner for wrongful dishonor, lack of timeliness in giving notice of dishonor, and abusive litigation is explained in Petitioner's Counterclaim (R-754-873; R-878-902). Petitioner's not waiving notice requirements in her depositor contract agreement and the inapplicability of O.C.G.A § 11-4-103 for BofA, and O.C.G.A § 11-4-103 supporting Petitioner's claims, with O.C.G.A § 11-4-301 and/or O.C.G.A § 11-4-302 superseding O.C.G.A § 11-4-103 provisions, has also been explained in Sections II, IV, & V, and other sections of Petitioner's MSJ (R-754-873). Contrary to Court of Appeals Opinion dated 11/20/09, the risk for non-collection on a check due to any inefficient bank procedures or otherwise remains with the bank (BofA here) and not the depositor (Petitioner here). No citation of authority or Statute proves otherwise. Please note that the ***provisional clause of BofA's deposit agreement for credit is also invalid*** due to the fact that Petitioner's ***check was neither returned as fraudulent by Ulster Bank on 7/8/04, nor did BofA give a timely notice of dishonor and there is no proof in the record to the contrary*** as the judges can very well verify by thoroughly reading every part of the record (R-1-924). BofA's past actions also did not comply with OCGA § 11-4-214(a), ".....bank is liable for any loss resulting from its delay...," as claimed by Petitioner in Sections XV and XVI of her Appellate brief & MSJ (R-625-690; R-754-873; R-878-902) seeking

compensation from BofA for its mistakes & abusive litigation.

Court of Appeals erroneously misinterpreted the meaning of "final" in the statute OCGA 11-4-201(a) and ignored the fact that "final settlement" was already made to Petitioner by the "midnight deadline" after deposit, on June 14, 2004, and Petitioner had no risk remaining in this case for any non collection aspects after the midnight deadline. The case law and statute OCGA § 11-4-201(a) cited by Court of Appeals does not in any way state or suggest that depositors have to wait until their deposited checks are charged back without reason at any time (for such arbitrary time without specificity, to be construed as the midnight deadline), or that having to wait until check deposit cases are decided by Courts amounts to a "reasonable" time for a depositor to assume "risk for clearance" of each and every check deposited; ***since that would be the most absurd logic and interpretation of the Statutes as was done by Court of Appeals in the past***. Hence, the ***arguments of the Court*** as presented in regard to risk of non-collection being with depositor instead of being upon the bank are ***not only preposterous and absurd and unsubstantiated by any Statute quoted by it, but they fail the test of reasonableness*** under any humane circumstances of consumer banking across continents with international checks, in this modern day and age of electronic high speed banking. Further, OCGA § 11-4-201 (a) depends on the intent of the legislature in its enactment as to what the meaning of the word "final" means when the check is already "finally paid" to depositor once (as was done by BofA on 6/14/04), and is also as stated clearly applicable to banks and its branches as agents, and

their events transpiring between collection and payment activities between collecting bank (BofA) and final payor bank (Ulster Bank); and is not applicable between the bank (BofA) and depositor (Petitioner). Moreover, one cannot clearly brush away the intent of the legislation of the Statute that states, that a depositary bank such as BofA is also the Payor bank to depositor, as stated in OCGA § 11-4-105(2), which means that there is "no risk or burden on a depositor such as Petitioner" from any provisional payments once paid by the midnight deadline of 6/14/04, which is "final" for all practical purposes by any measure of commonsense reasoning for the meanings of "midnight deadline" and "final" to have any significance.

Therefore, Appellee is not entitled to any recovery or chargeback in this case, where it has failed to have a valid superseding contract, and/or as a depositary bank and/or collecting bank it has failed to send a timely notice of dishonor after its prior honoring of a check, and/or as a collecting bank it has failed to present Petitioner's check to maker bank, and/or has presented no tangible evidence to justify its alleged dishonor.

To elaborate further:

(a) The laws and statutes of O.C.G.A § 11-4-301 and/or O.C.G.A § 11-4-302 precluding Appellee's right to chargeback without giving a timely notice of dishonor supersede any Article 4 provisions of O.C.G.A § 11-4-103 pertaining to alterations in Deposit Disclosure Agreements of Appellee. Appellee has no absolute right to charge back pursuant to their deposit disclosure document, pursuant to O.C.G.A § 11-4-214, because Article 4 supersedes Appellee's deposit agreement, which is invalid and terminated, and Petitioner does not give her consent

to Appellee for any known waiver of the requirement of issuance of a timely notice of dishonor by Appellee to Petitioner. Further, the statutes which Petitioner based her defenses on, in her amended answer with counterclaim deal with responsibilities of BofA as a payor bank as well as a depositary bank, which in fact justify Petitioner's claims as explained next.

(b) Validity of O.C.G.A § 11-4-301 and O.C.G.A § 11-4-302 (a) (1) in the current case precluding Appellee's right to chargeback Petitioner's account and making Appellee liable to pay Petitioner by overriding O.C.G.A § 11-4-214, is clearly evident from O.C.G.A § 11-4-103(d). As is evidently applicable to the current case in favor of Petitioner, O.C.G.A § 11-4-103(d) states, "The specification or approval of certain procedures by this Article is not disapproval of other procedures that may be reasonable under the circumstances."

(c) According to the definitions of types of banks, of O.C.G.A § 11-4-105(2): "Depositary Bank," means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter. Clearly, this definition is applicable in the current case because Bank of America did take in Petitioner's check deposited on 6/12/04 as a deposit into Petitioner's account# 3275278929 as proved by discovery. The check was not paid in cash over the counter, but was paid/honored/credited into Petitioner's account as cyberspace electronic credit/deposit units for $40,705.00. It must be noted that Bank of America had already deducted its commission upfront from the transaction for the spot rate difference (between buying and selling checks/currency, although there was no physical currency exchange involved in this case on deposit) for foreign exchange conversion

between Euros (€) and U.S. Dollars ($), without supplying any real goods or services other than arguably its "service" of accepting/endorsing Petitioner's check (a 3rd party international check) upon receipt and presentment on 6/12/04, with a computerized/printed line for endorsement of its teller or computer on Petitioner's check. Therefore, obviously, according to the functions of a bank and the definition of O.C.G.A § 11-4-105(2), Bank of America is both the depositary as well as payor bank. To hold otherwise would mean that Bank of America is unfit to be a bank for depositors or consumers as it would then only siphon off depositors' money and pay out nothing in return to any depositor, basically a useless and dysfunctional financial system, a sink hole or black hole, in other words. Appellee, Bank of America, cannot opt out of its functions/duties of paying Petitioner as a payor bank, since as defined and stated by law; Bank of America as a depositary bank is also a payor bank.

Bank of America claimed in its past MSJ/brief that it does not consider itself a payor bank, but admitted that it is a depositary or collecting bank. However, Bank of America's argument is without merit, as Appellee has no choice but to be both a 'depositary' and 'payor' bank, which are relativistic terms depending on the phase of banking transactions as explained in Section XII of Petitioner's Petition for Certiorari dated 12/23/09. Appellee cannot be a depositary bank and collecting bank but not be a payor bank, for that kind of an argument would mean that Appellee is unfit to function as a bank, as it would then simply take up depositors'/consumers' money/deposits/time/efforts and give back nothing in return to the depositors. That argument would also be inconsistent with

commonsense, as it would mean that a Bank would give out nothing for something taken from a depositor and would erroneously attempt to illegally and illogically collect from a depositor/endorser of a check instead of being competent in collecting funds from the maker (who is also a payor bank for the phase of transactions between the collecting bank and maker bank). Thus, Bank of America has no right for chargeback in this case, as its logic is topsy-turvy & lacks a basis in sanity and commonsense.

(d) Petitioner's substantial interpretation and explanations in the preceding sections about a depositary bank being a payor bank according to the statutory definition of O.C.G.A § 11-4-105(2) is also supported by the following citation: Construction of UCC § 4-105, which defines "payor bank," "depositary bank," and "collecting bank," and the like, 84 ALR3d1073.

(e) Other arguments supporting the fact that Appellee is precluded from chargeback of Petitioner's account in this case are now presented in this subsection. An absolute liability to pay an instrument such as an international check is a primary liability. A party with primary liability promises to pay the instrument without reservations of any kind. Two parties have primary liability: the maker of the check as per UCC § 3-412, or/and the acceptor of the check (Appellee, Bank of America, in this case) as per UCC § 3-413, to pay the indorser (the Petitioner) in this case. A liability to pay only after certain conditions have been met is secondary liability. An indorser (Petitioner) cannot have any kind of liability including secondary liability unless all of the following conditions are met with respect to the honoring of a check:

(i) The instrument must be properly presented to the primary party or drawee and payment must be demanded; ⟹ Please note that Bank of America was presented Petitioner's check on 6/12/04 which it accepted and paid on demand by 6/14/04, but there is no proof in discovery that condition (i) stated above has been met as there is no evidence that Petitioner's check was presented to Ulster Bank in Ireland.

(ii) The instrument must be rightfully dishonored, that is payment refused for a valid reason with tangible evidence presented to substantiate alleged reason of dishonor; ⟹ Please note that this condition has not been met. There is no proof that Ulster Bank ever refused payment nor is there any proof that is tangible from Ulster Bank for proof of reason for dishonor. In fact even Bank of America honored Petitioner's check first on 6/14/04 after acceptance, and paid it in electronic deposit credit units on 6/14/04; and

(iii) Notice of dishonor must be given to the secondary party within the time and in the manner prescribed by the UCC (the midnight deadline after the date of deposit of Petitioner's check on 6/12/04, in this case). ⟹ Please note that no proof of timely mailing of any notice of dishonor to Petitioner by the midnight deadline, prescribed by UCC, has been presented by Appellee in discovery which was already completed by 2/9/07.

Now, if all three of the above stated conditions are not met according to UCC § 3-412, UCC § 3-413, and UCC § 3-415 (please note that there is evidence in this case that these three conditions have not been met all together), indorsers (such as the Petitioner) are discharged from any

possible liability obligations. However, if the drawee cannot pay because of insolvency and all three conditions stated previously are not met, the drawer and Petitioner are both discharged from obligation. So, Petitioner is anyway discharged of liability in this case. Moreover, since the aforementioned conditions have not been met according to UCC § 3-413, UCC § 3-414, UCC § 3-415, and UCC § 3-501, and/or UCC § 3-508 simultaneously, the dishonor is a wrongful dishonor in this case if Appellee contends dishonor at all. Petitioner's observations are supported by logic and principles of business law described in, Business Law with UCC Applications: 9th Edition, Gordon W. Brown, Paul A. Sukys, Glencoe/McGraw-Hill, Inc. Ohio, USA, ISBN: 0-02-802865-1, (1997). So, Appellee anyway does not have any right for chargeback in this case. Further details are in Petitioner's MFR to Court of Appeals dated 11/30/09.

XIIA. DEFENSE OF ESTOPPEL PRECLUDES BofA'S RECOVERY

It is also true that the banking acts of BofA, of receiving Petitioner's check for deposit on 6/12/04, performing banking transactions on it, and retaining it, without returning the physical original instrument/check to Petitioner in original form, deprive Petitioner the opportunity to use the check with any other bank. Such irresponsible behavior of BofA as detailed in Section VI of Petitioner's MSJ is a sign of its gross negligence.

As required by Georgia Commercial Code Ann. § 109A-3—508, a notice of dishonor needs to be sent in a specified time frame to the indorser, as indicated

earlier. The failure to give requisite notice results in the discharge of the indorser of any liability according to Georgia Code Ann. § 109A-3—502(1)(a). *Clements v. Central Bank of Georgia*, 155 Ga. App. 27; 270 S.E. 2d 194; (1980), also supports the above arguments in favor of Petitioner. O.C.G.A § 11-4-302(a)(1) also makes Bank of America liable to pay Petitioner for the check deposited on 6/12/04. ***This law clearly states that if an item/check is presented to and received by a payor bank like BofA (which is also a depositary bank as well as a payor bank), the bank is accountable for the amount of the demand item (such as the check) whether properly payable or not, in any case in which it is not also the depositary bank, retains the item beyond the midnight of the banking day of receipt without settling for it, or whether or not it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline.*** Also, according to *Bank S. v. Roswell Jeep Eagle*, Inc. 204 Ga. App 432, 419 S.E. 2d 522 (1992), when there is no valid defense alleged by Appellee (as in this case), a payor bank such as BofA is liable to pay the holder (Petitioner here) for amount of check it received. This statutory application of law is supported by *National City Bank v. Motor Contract Co.*, 119 Ga. App. 208, 166 S.E.2d 742 (1969). There is also legal precedence that prohibits a bank from debiting a deposit account after initial credit. This has been cited in *Clements v. Central Bank*, 155 Ga. App. 27, 270 S.E. 2d 194 (1980); *Sabin Meyer Regional Sales Cop. v. Citizens Bank*, 502 F. Supp. 557 (N.D. Ga. 1980); *Bleichner, Bonta, Martinez & Brown, Inc. v. National Bank (In ref. Micro Mart, Inc.)* 72 Bankr. 63 (Bankr N.D. Ga. 1987); *Landers v.*

Heritage Bank, 188 Ga. App. 785, 374, S.E. 2d 353 (1988). Moreover, in *Landers v. Heritage Bank*, 188 Ga. App. 785, 374, S.E. 2d 353 (1988), neither the bank's claim of the Uniform Commercial Code provisions of O.C.G.A § 11-4-212/401, nor the bank's claim of its signature card (and in turn their deposit agreement) constituting a contractual obligation for Petitioner/depositor to pay Appellee/bank anything were effective to relieve the bank in a situation similar to this case.

So, essentially, the Appellee/BofA, by delaying the mailing of the bank statement for more than 30 days, until 7/15/04 (with an unproven and unsubstantiated allegation that the check was returned, without the original check nor its copy having been returned by 7/15/04), with a fictitious and hypothetical return date stated as 7/8/04, and failing to give any formal legal notice of dishonor by its midnight deadline, and failing to return the check by its midnight deadline, as required by law, precludes itself from the right to debit Petitioner's account or bring a suit on contract against Petitioner who is discharged of any liability to Appellee. It is reiterated that Petitioner never explicitly gave her consent to Appellee bank that she would accept a copy of an original check as proof of notice of dishonor. Petitioner has also not received the original check back from Appellee as returned, by close of discovery, by 2/9/07. Therefore, Petitioner is discharged and BofA is liable. So, Petitioner's MSJ should have been granted.

Petitioner would not have faced this situation if Petitioner had banked with a more efficient bank than BofA. Thus, the elements of estoppel (O.C.G.A § 24-4-24) prevent the bank from obtaining a refund of the amount credited to Petitioner's account on

6/14/04, as per legal precedence in First Ga. Bank v. Webster, 168 Ga. App. 307, 308, S.E.2d 579 (1983). Burke v. First Peoples Bank of N.J., 412 A2d 1089 (N.J. Super 1980). Hence, Petitioner's withdrawal of funds from check and spending the money in the American economy carries no liability for Petitioner and Petitioner's Certiorari must be granted.

XIIIA. BofA PRESENTED NO EVIDENCE TO JUSTIFY DISHONOR

BofA hasn't presented any evidence to justify its dishonor or any evidence of mailing any timely notice of dishonor. Petitioner did not withdraw any funds that were not hers or her family's, nor created an overdraft on her account, nor had any loan account or contractual obligation for any loan with BofA as explained in Sections II and III of Petitioner's MSJ (R-754-873). Petitioner is not liable for anything to BofA as clearly explained in Sections II, VII, and other Sections of Petitioner's MSJ (R-754-873). O.C.G.A § 11-4-214 is limited by O.C.G.A § 11-4-301 and O.C.G.A § 11-4-302, precluding Appellee from charging back Petitioner's account, especially when check has not been presented to maker bank, as here. As explained in Section II of Petitioner's MSJ, she did not open a checking account with BofA pursuant to its unconsented terms and conditions (which were not actually disclosed to her but were drafted deceitfully & unilaterally by BofA without her prior consent). BofA's checking a/c agreement is therefore immaterial and irrelevant to this case. BofA's statements/documents/affidavits with remarks based on rumors/hearsay, are inadmissible conclusory allegations (R-363-376). BofA's affidavit from its custodian of records Crystal

Frierson is inadmissible as per OCGA § 24-3-14, as it was not made in the regular course of business or contemporaneously when the events occurred but made in 11/04 and 11/06, unreasonably long after Petitioner's account was closed in 8/04, at a time when there was no business being transacted on her account. There was also no foundation laid for admissibility of the affidavit as per OCGA § 24-3-14(b). Rumors from unknown sources are hearsay. Plemans v. State, 155 Ga. App. 447, 270 S.E.2d 836 (1980); Kumho Tire Co. Ltd. v. Carmichael, 526 U.S. 137 (1999) (Cited in Opinions of The United States Supreme Court). Petitioner's Motions in Limine therefore should have been granted since BofA's affidavits based on hearsay, and hearsay itself from unknown and unauthenticated original sources terming Petitioner's check as counterfeit, based on Conclusory allegations, speculation, opinions, whims, etc., in this case, breaking the chain of evidence, is inadmissible. Other citations, including Opinions of The United States Supreme Court, suggesting that such hearsay from BofA is inadmissible are; Clauss v. Plantation Equity Group, Inc. 236 Ga. App. 522, 512 S.E. 2d 10 (1999); Daubert v. Merrell Dow Pharmaceuticals, Inc. 509 U.S. 579 (1993) (Cited in Opinions of The United States Supreme Court); General Electric Co. v. Joiner, 522 U.S. 136 (1997) (Cited in Opinions of The United States Supreme Court). Crystal Frierson also does not have personal knowledge on the issues of authenticity of Petitioner's check or the issue of whether BofA gave a timely notice of dishonor by the midnight deadline, or about the unauthorized debits on Petitioner's account since she is merely acting on hearsay and was not the original decision maker for the actions. Contrary to Court of Appeals opinion of 11/20/09,

BofA's said affidavit was also inadmissible as it fails the test of requirement of personal knowledge of affiant for admissibility for Summary Judgment as per OCGA § 9-11-56(e), Span v. Phar-Mor, Inc. et al. (251 Ga. App. 320) (554 SE2d 309) (2001). So, MSJ of BofA must be denied & Petitioner's MSJ must be granted (R-383-472; R-754-873).

XIVA. BofA's WITNESSES HAVE NO PERSONAL KNOWLEDGE

It is a fact that BofA, in its responses to first interrogatories (R-227-230), for questions #8 and #10, pertaining to details on individuals with personal knowledge on the decision of clearance of Petitioner's check, and on the subject matters of the case, clearly admits as follows: "...Appellee is not in possession of names and addresses of a particular individual or institution responsible for the decision that the check was counterfeit," and "...Persons in possession of specific knowledge related to this case have not been identified..." So, there is lack of authentication and accountability for BofA's claims. None of BofA's witnesses disclosed by discovery deadline of 2/9/07 provided by court (neither Crystal Frierson nor Michael Ware), could possibly have any personal knowledge on issues of dishonor of check or notice of dishonor as per O.C.G.A § 11-4-301, and/or O.C.G.A § 11-4-302, because they weren't the individuals who dishonored the check and the individuals who issued/mailed any such notice (R-346-362). So, Petitioner's MSJ (as explained in its Section VIII) should have been granted (R-383-472; R-754-873), and this Petition must anyway be granted.

XVA. PETITIONER DESERVES TO BE COMPENSATED BY BofA

Appellee's malicious action can be nipped in the bud and Petitioner can seek recovery from BofA in this very action from her counterclaim, which is the very purpose of a counterclaim, to claim quick financial relief from Appellee and save time/cut short litigation. Appellee's past statement in 2006/2007 that the burden is on the depositor-payee of the check to specifically show "that it would have been able to collect something from the drawer if timely notice of dishonor had been received," is inapplicable here as it applies only to compensatory damages and not other forms of damages that Appellee is anyway responsible and liable for, notwithstanding the fact that Petitioner had already met this burden in her earlier pleadings to the extent she is seeking financial relief and compensation for. This is clearly inferred in favor of Petitioner's claims already, on the basis of Brady on Bank Checks, Chapter 24, Citing Appliance Buyers Credit Corp., v. Prospect National Bank, 708, F2d 290, 36 UCC Rep. 231 (5th Cir. Ill. 1983).

Petitioner's check is legitimate based on Petitioner's knowledge and attached evidence presented with her Motion for Summary Judgment (R-383-472; R-754-873). Appellee's rumors, slander, conclusory allegations or remarks based on hearsay from unknown/unauthenticated sources of origin without personal knowledge are no proof to the contrary. The funds represented in the check and the drawee account existed at the time of deposit (around 6/12/04) and clearance (around (6/14/04) to the best of Petitioner's knowledge & based on evidence attached with Petitioner's motion for

summary judgment and her supporting affidavits. The check is legitimate and not part of any internet scheme to the best of Petitioner's knowledge and as per evidence presented with Petitioner's motion for summary judgment, and Appellee has presented no evidence to the contrary. There are no genuine issues of material fact in dispute. Petitioner has established every valid basis for affirmative relief in her counterclaim and Motion for Summary Judgment against Appellee (R-754-873; R-878-902). Therefore, Appellee's motion for summary judgment must be denied by the court and Appellee's action must be terminated with prejudice, granting Petitioner's counterclaim, motion for summary judgment, and Petitioner's subsequent claims against Appellee immediately.

(A) To date of this writing, the known laws of U.S and Georgia Commercial Code are equally applicable to U.S checks as well as international checks deposited in the United States, in Georgia. This case involved extremely complex litigation and analysis because there exist no established specific consistent metrics or separate laws that establish guidelines and govern dishonor of international checks (specifically on the issue of what constitutes a rightful or wrongful reason for dishonor and what tangible proof is needed to justify any dishonor), other than the rules of evidence, and reasoning presented by Petitioner in the current brief and her Motion for Summary Judgment (R-754-873; R-878-902). Appellee's actions clearly indicate that Appellee had been attempting to get away with an unjustified hearsay opinion from unknown and unreliable/unauthenticated sources, in a dictatorial manner through misrepresentation (O.C.G.A § 23-2-52), with a conclusory allegation to be taken as a

reason for dishonor, which is definitely not proof of Appellee's allegations on Petitioner's check. Anyhow, Petitioner has already sufficiently proved with logical reasoning through her pleadings that any alleged dishonor of Appellee after honoring/accepting/crediting of Petitioner's check deposited was illegal (or not recognized legally), which constitutes wrongful dishonor. Therefore, BofA is liable to pay Petitioner for wrongful dishonor of Petitioner's check and abusive litigation of Appellee.

(B) Conclusory allegations by way of remarks or statements of Appellee or its attorney(s) that Petitioner's check is counterfeit because they state/say somebody said it was so, when the judges do not know who originally said it was so and why, cannot be taken as proof of allegations. Hence, BofA needs to be adequately penalized and made to compensate Petitioner adequately for all the unnecessary harassment from Appellee that Petitioner endured. Appellee must therefore be also made to remove or clear negative remarks about Petitioner's account in her Chex Systems or other consumer reports in the past pertaining to the check incident in this case. The amount of proximate damages Petitioner suffered due to such unjust actions of Appellee between 2004 and 2006, to date, cannot perhaps be tangibly assessed in any other way other than by accounting for lost opportunity and incidentally lost income in an approximate manner for Petitioner, due to unfair mudslinging or slander of Petitioner's reputation by Appellee between 2004 and 2006, to date. Additionally, due to the past lost/missed out remunerative opportunities for Petitioner, her approximate living expenses, without income, while fielding and litigating

Appellee's abusive litigation, prior to March 2007, to date, can also be considered to be reasonably attributed to proximate damages caused by Appellee's abusive action.

(C) Wrongful dishonor is considered a "tort," for which punitive damages may be imposed. Fidelity Natnl. Bank v. Kneller, 194 Ga. App. 55, 390 S.E.2d 55 (1989). Appellee, Bank of America, can therefore also be sued by Petitioner separately in another action, if needed (although Petitioner would rather desire that Appellee awards her a reasonable settlement on her counterclaim in this action itself based on her briefs and motion for summary judgment of past, settling this case and its aspects once and for all, without Petitioner having to pursue any other action), for bad faith in transaction, fraud and misrepresentation of Appellee, and libel/slander, for all possible recuperation of damages, including but not limited to; compensatory damages, consequential damages, punitive damages, and incidental damages, as per O.C.G.A § 11-5-111, and/or O.C.G.A § 11-4-402, et al. for around $1 Million+ or more, for Multi Millions of U.S. Dollars. Beckman Cotton Co. v. First Nat'l Bank, 666 F.2d 181 (5th Cir 1982). Also cited in Pro-Fab, Inc. v. Vipa Inc., 772 F.2d 847 (11th Cir. 1985). There was no error in award of punitive damages and other damages where the Appellee's actions (such as BofA's) showed willful misconduct, fraud, wantonness and an entire want of care, which raised the presumption of conscious indifference to the consequences of the conduct. Scriver v. Lister, 235 Ga. App. 487, 510 S.E.2d 59 (1998). Therefore, it is reasonable for Appellee to compensate Petitioner for proximate damages caused to Petitioner by

Appellee's wrongful alleged dishonor and abusive litigation.

(D) This case has been the result of an artificial problem created/simulated by Bank of America. Therefore, its resolution mandates that Appellee, Bank of America, approximately compensate Petitioner economically for its erroneous dishonor and abusive litigation and proximate damages caused to Petitioner prior to the writing of her motion for summary judgment and subsequent pleadings until this Writ, as explained earlier. Bowen & Bowen Constr. Co. v. Fowler, 265 Ga. App. 274, 593 S.E.2d 668 (2004). Fowler v. Smith, 237 Ga. App. 841, 516 S.E.2d 845 (1999). Further, Appellee's conversion of Petitioner's property in her bank account also calls for punitive damages to be obtained from Appellee for Petitioner. Lawrence v. Direct Mrtg. Lenders Corp., 254 Ga. App. 672, 563 S.E.2d 533 (2002). Appellee's wry/wayward or weird actions had caused Petitioner anxiety, shock, and needless worry which caused Petitioner emotional trauma, pain and suffering, prior to January 2007, and to date. So, adequate compensation must be awarded to Petitioner by Appellee, as financial relief. MacDonald v. United States, 900 F. Supp. 483 (M.D. Ga. 1995). Petitioner has already adequately demonstrated in her past pleadings that she had passed up on some lucrative opportunities, expended unnecessary time and resources, and suffered emotional distress or unnecessary mental anguish due to Appellee's unscrupulous actions prior to January 2007, and to date, having had to focus on carefully cleaning up Appellee's mess and terminating Appellee's nonsensical case and action, instead of having been able to use her time more productively and gainfully for other lucrative

remunerative purposes, prior to this writing (R-754-873; R-878-902). Appellee's actions since 2004 on Petitioner's account and its action in the past resulting in protracted litigation to date, had caused Petitioner unnecessary cost/expense during litigation which must justly be recovered from BofA.

(E) Since Appellee had wrongly dishonored Petitioner's check, Petitioner is entitled to recover from Appellee the face amount of the check/deposit together with incidental damages or other damages caused proximately by Appellee's misconduct. Incidental damages include all commercially reasonable expenditures. The test of commercial reasonableness is a practical one, requiring primarily honesty and good faith in attempting to minimize damages. What is commercially reasonable is to be determined from all the facts and circumstances of each case, and must be judged in light of viewing situation at time the problem was presented. Beckman Cotton Co. v. First Nat'l Bank, 666 F.2d 181 (5th Cir. 1982). Cited in Pro-Fab, Inc. v. Vipa Inc., 772 F2d 847 (11th Cir. 1985). Under the remedies available from O.C.G.A § 11-5-111, it is generally understood that in a situation such as the Petitioner's, code section O.C.G.A § 11-5-115 also does not require that face amount of check be sole measure of damages. Am. Jur. 2d: [15A Am. Jur2d, Commercial Code, § 67]. Also, generally, under a bank's liability to a customer, Petitioner would be entitled to recover proximate damages caused by Appellee's wrongful dishonor of Petitioner's check. See Code Ann. § 109A-4--402 (Ga. L. 1962, pp.156, 303). An exact dollar amount as to an upper limit for damages or compensation that Appellee must award is not one that can be easily assessed due to the intangible nature of human suffering caused by

Appellee's erroneous actions on Petitioner's bank account prior to January 2007, and to date. Nevertheless, for the purpose of this case, and for Petitioner's counterclaim against Appellee, it is now just and reasonable for the Appellee to pay Petitioner in the proximate range of around $344,876.54 to $1 Million+, at the least, immediately, as explained in her earlier pleadings (R-754-873; R-878-902). The details presented there with updated justifications are summarized in the succeeding paragraphs:

(1) Petitioner has explained in detail the valid grounds for her to seek proximate damages from Appellee in Section X of her motion for summary judgment and subsequent pleadings. To reemphasize, Petitioner deserves to be compensated by Appellee for Appellee's wrongful dishonor of Petitioner's check, failure to give a timely notice of dishonor to Petitioner, and for Appellee's abusive litigation in this case. There is no rule or statute in law that says that a claim on behalf of a customer must stand entirely on its own when the opportunity of making the claim has already been availed of by customer/Petitioner through her counterclaim against Appellee and her motion for summary judgment in the current action itself. Petitioner is requesting recovery from Appellee pursuant to O.C.G.A § 11-4-301, and/or O.C.G.A § 11-4-302, and/or O.C.G.A § 11-4-402, and/or O.C.G.A § 11-5-111, and other applicable laws, such as O.C.G.A § 51-12-5.1, and/or O.C.G.A § 51-12-5, and/or O.C.G.A § 51-12-6, and/or O.C.G.A § 51-1-1, and/or O.C.G.A § 51-7-83, and/or O.C.G.A § 51-7-84, etc. Petitioner seeks proximate damages to be recovered from Appellee, including but not limited to, compensatory damages, incidental

damages, consequential damages, and punitive damages.

(2) Sufficient reasoning has been presented by the Petitioner in her motion for summary judgment that Appellee's delay in giving her a notice of dishonor had caused Petitioner damages. To reassert, if Appellee had either not accepted the Petitioner's check/deposit on June 12, 2004, or had Appellee given a timely notice of dishonor by the midnight deadline, by June 14, 2004, Petitioner would not have withdrawn any funds from the deposit, notwithstanding the fact that Appellee would still be liable to Petitioner for a wrongful dishonor of Petitioner's check. However, then, Appellee's abusive litigation or Petitioner's other damages wouldn't have existed.

(3) Since Appellee's erroneous action/claim and abusive litigation is actually caused by its own actions of invalid debits on Petitioner's account, after Petitioner's withdrawal of funds which were honorably permitted by Appellee of its own volition, it is clear that Appellee's own actions and abusive litigation is the cause for damages suffered or incurred by Petitioner from July 8, 2004 through March 12, 2007, to date around the time of submitting the current Writ of Certiorari. This issue does not have to be taken up in a separate action by Petitioner against Appellee since it has already been raised to Petitioner's advantage in her counterclaim against Appellee in this case, and since it can be settled right now in Petitioner's favor. To emphasize, that which is remediable today in favor of Petitioner on her counterclaim against BofA does not have to be procrastinated until tomorrow.

(4) If Appellee had not placed/caused to be placed any improper and slanderous remarks (O.C.G.A § 51-5-1 through O.C.G.A § 51-5-112), as it did in Petitioner's chex systems reports or other customer credit reports in 2004, Petitioner could have maintained a better reputation in the past and could have gained gainful employment in banks easily between 2004 and 2006, to date, drawing an average salary of at least $50,000 to $100,000 per year. So, due to Appellee's actions, Petitioner was precluded from work opportunities in the financial and banking Sector, from 2004 to 2006, to date, which translates to lost opportunity and incidentally lost income in an approximate manner for Petitioner between 2004 and 2006, to date. Therefore, Appellee's failure to give a timely notice of dishonor caused proximate damages of at least $100,000 in missed opportunity/opportunity costs and income for Petitioner between 2004 and 2006, which are to be treated as incidental damages, as per O.C.G.A § 51-12-1 through O.C.G.A § 51-12-77, and/or other applicable laws affording relief to Petitioner.

(5) Appellee's abusive litigation (O.C.G.A § 51-7-83 and/or O.C.G.A § 51-7-84) which also stems from Appellee's failure to give Petitioner a timely notice of dishonor had precluded Petitioner from procuring other lucrative out of state work opportunities during the course of Appellee's abusive litigation, especially in the past in 2006/2007, because Petitioner had to unnecessarily be present in town to terminate and litigate Appellee's litigation, which is now expected to end immediately in Petitioner's favor and victory. To the best of Petitioner's

knowledge, some of the work opportunities from outside the State of Georgia that Petitioner could not avail of in 2006 and 2007, due to Appellee's abusive litigation, were offering around $75/hour or more, in the Information Technology and Software sector, for the kind of analytical skills that Petitioner has and can provide to the Corporate World. So, it is reasonable to conclude that Petitioner could have gained an additional $150,000 or so to date (at the rate of $75/hour for 2000 hours in one year from April 2006 until around March 2007, when Petitioner filed for Summary Judgment), in remuneration, had it not been for Appellee's failure to give a timely notice of dishonor and its abusive litigation. Therefore, $150,000 can be considered to be the consequential damages to be awarded to Petitioner from Appellee, as per O.C.G.A § 51-12-1 through O.C.G.A § 51-12-77, and/or other applicable laws affording relief to Petitioner.

(6) Considering the fact that a typical household in the Cobb County/Vinings area in Smyrna, Georgia incurs a monthly expenditure of approximately $1,500 to $2,000, living expenses for the Petitioner between April of 2006 and March 2007 varied around $18,000 to $24,000, during the months of Appellee's abusive litigation up until March 12th of 2007. However, if we consider the living expenses incurred by Petitioner from July 2004 (period of wrongful dishonor of Petitioner's check and failure of Appellee to give a timely notice of dishonor to Petitioner) to March 12, 2007, Petitioner incurred living expenses varying between $48,000 and $64,000 approximately (from July 2004 to March 2007 being a period of 32 months). Since

Appellee's failure to give Petitioner a timely notice of dishonor not only resulted in Petitioner loosing income from July 2004 to March 12, 2007, but also made Petitioner incur living expenses without income, such expenses without income are additional damages caused by Appellee's actions and abusive litigation. Therefore, on an average, $56,000 (being the average of $48,000 and $64,000, mathematically speaking), is to be considered reasonably attributed to proximate additional damages caused by Appellee's action due to aggravating circumstances, as per O.C.G.A § 51-12-5, which are to be recovered from Appellee, as expenses and costs, pursuant to O.C.G.A § 51-12-7, and O.C.G.A § 9-15-1.

(7) Of course, the amount of $1376.54 as principal, that Appellee owes Petitioner due to its wrongful debit, is proximate compensatory damages caused by Appellee by its failure to give a timely notice of dishonor and wrongful dishonor, which has already been elaborately described as part of Petitioner's counterclaim and motion for summary judgment.

(8) Wrongful dishonor is a "tort," for which punitive damages may be imposed. Fidelity Natnl. Bank v. Kneller, 194 Ga. App. 55, 390 S.E.2d 55 (1989). Therefore, Petitioner requests the honorable court to impose a minimum punitive amount of $25,000 or $50,000 on the Appellee as punitive damages (although the measure of punitive damages is permitted to be as high as $250,000.00 to over $1 Million U.S Dollars for BofA's attempts to tarnish Petitioner's and her husband's reputation), and sanctions or fines on Appellee that it has to pay Petitioner as punitive relief, so that the Appellee

bank is deterred from such wrongful dishonor of depositors' checks in the future, in general.

(9) Further, it is also noted that general damages (O.C.G.A § 51-12-1) are also those which the law presumes to flow from a tortious act, such as the wrongful dishonor of Petitioner's check, and may be appropriately awarded as financial relief to Petitioner, without proof of any specific amount, to compensate the Petitioner for the abuse she suffered due to Appellee's malicious acts and abusive litigation. This reasoning is supported by case law citation, Alexander v. Holmes, 85 Ga. App. 124, 68 S.E.2d 242 (1951); Avery v. K.1., Ltd; 158 Ga. App. 640, 281 S.E.2d 366 (1981). There was also no error in an award of punitive damages and other damages where the Appellee's actions (as in this case) showed willful misconduct, fraud, wantonness and an entire want of care, which raised the presumption of conscious indifference to the consequences of the conduct. Scriver v. Lister, 235 Ga. App. 487, 510 S.E. 2d 59 (1998). Therefore, it is reasonable for Appellee to compensate or pay Petitioner for proximate damages caused to Petitioner by Appellee's wrongful dishonor, failure to give timely notice of dishonor to Petitioner, and for Appellee's abusive litigation.

(10) Petitioner has adequately proved through her reasoning and statements from personal knowledge that she is to be awarded financial relief and payment from Appellee for proximate damages caused by Appellee, in her pleadings, motion for summary judgment, and also the current writing. To sum it up, the approximate financial relief/award and payment Petitioner requests from Appellee, and that she requests the

honorable court to grant, is summarized as described in the succeeding paragraphs (with calculations for average proximate damages detailed earlier):

(a) Compensatory damages to be awarded as financial relief to Petitioner by Appellee (based on details in point#7) = $1,376.54.

(b) Proximate incidental damages to be awarded to Petitioner as payment from Appellee (based on details in point#4) = $100,000.00.

(c) Proximate consequential damages to be awarded to Petitioner as payment from Appellee (based on details in point#5) = $150,000.00.

(d) Proximate additional damages, costs, and expenses, for aggravating circumstances to be awarded to Petitioner as payment from Appellee (based on details in point#6) = $56,000.00.

(e) Proximate average **punitive damages themselves** to be awarded to Petitioner as payment from Appellee (based on details in point#8) = $37,500.00+ **(can also be increased for baseless abusive litigation and/or delays in award of compensation, and can range from around $250,000.00+ to $1 Million+ U.S. Dollars)**.

Therefore, the total minimum proximate damages that would be appropriate to award to Petitioner as payment from Appellee in this case is sum of all of the above = Total Sum of amounts in (a) through (e), as indicated above = $1,376.54 + $100,000.00 + $150,000.00 + $56,000.00 + $37,500.00 + (any additional amount of award of punitive

damages in the range of around $250,000.00+ to $1 Million+ U.S. Dollars) = **$344,876.54+ to $1 Million+ U.S. Dollars.** However, the Petitioner is willing to accept an immediate Court mandated settlement award from Appellee, BofA, of approximately around $344,876.54+ to just around $1 Million+ U.S. Dollars or so, on her counterclaim in this case, to settle this check case once and for all, and in return, Petitioner agrees not to pursue any other legal action/lawsuit for larger Multi Millions of U.S. Dollars against Appellee (BofA) on the check related issues pertaining to this case.

In summary, since discovery had been completed for all practical purposes in this case by the court ordered deadline of February 9, 2007 and there is no evidence to justify any dishonor of Petitioner's check by Appellee bank for it to not be wrongful, or/and there is proof that there was no timely notice of dishonor sent to the Petitioner, or/and, there is no proof of mailing from Appellee of any timely notice of dishonor to Petitioner; conditions (i) or/and (ii) stated in Petitioner's counterclaim for Petitioner's claims of financial relief become true, as self evident based on all facts presented in Petitioner's amended answer with counterclaim (R-383-472), its enumerated defenses, and in Petitioner's Motion for Summary Judgment (R-754-873; R-878-902). Therefore, there are no more issues clearly remaining to be determined to terminate Appellee's action and grant Petitioner relief on her counterclaim and Motion for Summary Judgment and other pleadings to date, immediately.

(F) It is safe to conclusively say that Appellee has wrongly allegedly dishonored Petitioner's check deposited on 6/12/04. Appellee also failed to give

Petitioner a timely notice of dishonor by the requisite midnight deadline mandated by the Uniform Commercial Code of the United States and Georgia Commercial Code. To substantiate these facts, Petitioner presented ample evidence with her motion for summary judgment. Petitioner also presented a copy of the envelope carrying the bank statement for 6/11/04 through 7/12/04 (for Petitioner's check deposited on 6/12/04 that was honored/paid on 6/14/04), which is not a formal notice of dishonor, with proof of mailing on 7/15/04 as a postmark, in Exhibit BBB attached with her motion for summary judgment (R-754-873). Petitioner received nothing else from Appellee that was hypothetically claimed to be mailed on 7/8/04 and there was no formal notice of dishonor at all. So, even the midnight deadlines of 6/14/04 or 7/9/04 were not abided by Appellee, even though only 6/14/04 is the relevant actual deadline for the purpose of this case.

(G) In the event of wrongful dishonor of the Petitioner's check deposited on June 12, 2004, the Petitioner's check has not been dishonored without Appellee incurring liability, in compliance with the provision of at least one or more or/and all of the provisions of the following laws of the United States Uniform Commercial Code and the Georgia Commercial Code, that govern Bank of America deposit accounts and banks' activities of any dishonor of checks, imposing liabilities on banks for any wrongful dishonor of checks: UCC § 4-401, or/and UCC § 4-402, or/and UCC § 4-301, or/and UCC § 4-302, or/and O.C.G.A. § 11-4-301, or/and O.C.G.A. § 11-4-302, or/and O.C.G.A. § 11-4-402.

(H) Appellee's failure to give a timely notice of dishonor by the midnight deadline after deposit on 6/12/04, constitutes a violation of at least one or more

and/or all the provisions and requirements of at least one or more and/or all of the following laws of United States Uniform Commercial Code and the State of Georgia, which makes the banks here accountable for amount of Petitioner's check, discharging Petitioner as depositor/endorser of any liability and resulting in liabilities for Appellee bank towards Petitioner, and also prevents the Appellee bank from recovering anything from Petitioner according to law: UCC § 3-503, or/and UCC § 4-302, or/and O.C.G.A. § 11-3-503, or/and O.C.G.A. § 11-3-502(b), or/and O.C.G.A. § 11-3-502(d), or/and O.C.G.A. § 11-4-301, or/and O.C.G.A. § 11-4-302, or/and Georgia Code Ann.; § 109A-3--502(1)(a), or/and § 109A-4--302, or/and § 109A-4—104(h), or/and § 109A-3—506, or/and Georgia Commercial Code Ann. § 109A-3—508(2) in this case. It is also emphasized that the statutory definition of O.C.G.A. § 11-4-105(2) or/and UCC § 4-105(2) clearly states that a "depositary bank" is also the "payor bank" for the purpose of this case, where deposit was credited into Petitioner's account and not paid as cash over the counter, which means that the Appellee bank has incurred liability as "depositary bank" due to its initial acceptance of Petitioner's check/deposit as per UCC § 3-413, and/or O.C.G.A. § 11-3-413(a)(ii), and/or O.C.G.A. § 11-5-111, etc.

This Petition and its requests must therefore be granted.